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AN INTERNATIONAL SURVEY

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INTRODUCTION

Recent years have witnessed a succession of changes and new developments in the field of minimum-wage regulation. New laws have been enacted in many countries, and earlier laws have been amended. As a result, the analysis of such legislation given in the report on *Minimum Wage-Fixing Machinery*[1], published by the International Labour Office in 1927, is now largely out of date. The Office has, however, received a great number of enquiries, particularly from those countries in which legislation has been recently enacted or is in contemplation, for information on more recent developments, and the need for a comprehensive international survey has been keenly felt.

The present study is designed to meet that need. The first part of it will consist of a series of monographs analysing the experience of different countries in minimum-wage regulation. Nine of these monographs — covering Australia, Belgium, Czecho-Slovakia, France, Great Britain, Ireland, New Zealand, Peru and the United States of America — are included in the present volume. Similar analyses of the experience of other countries will, it is hoped, be published at a later date, together with a general survey of the principles and problems of minimum-wage regulation.

The major part of each of the national monographs consists of a summary description of the development and present state of minimum-wage legislation and its application in the country concerned. Wherever the information available has permitted, this description is supplemented by a brief account of certain of the major problems encountered and results achieved by wage regulation. The sections dealing with these latter points are not to be regarded as in any sense a general appraisal of the working of the various types of wage regulation described. They are intended merely to draw attention to certain aspects of local exper-

[1] Studies and Reports, Series D, No. 17. Both the English and the French editions of this report have been out of print for some years.

ience which seem likely to be of interest to all who have to consider the advisability of establishing, modifying or extending any system of wage regulation. To facilitate more detailed study of the experience of particular countries, references are given (in footnotes, in a list at the end of each monograph, and in an international reference list at the end of the volume) to the main sources of information available.

A word of explanation may be added as to the precise scope of the study. By "minimum-wage regulation" is meant the fixing of legally enforceable minimum rates of wages by some authority other than the employers and workers or organisations of employers and workers directly concerned. Collective agreements, though they fix the standard or the lowest rates of wages which may be paid in any particular trade or industry, are consequently not included in this survey[1] unless they can be made binding on persons who have not agreed to accept their provisions. If, however, provision exists for the compulsory extension of such agreements to third parties, such provision constitutes, as regards employers and workers who are required to observe conditions which they have not voluntarily accepted, a form of wage-fixing by authority, and it is therefore included in this study. One form of wage-fixing by authority is, however, excluded : namely, the so-called "fair wage clause" in public contracts, by which contractors or suppliers to public authorities are required to conform to specified standards as regards the remuneration of their workers. Because of the limited and special nature of this type of regulation, and also because information as to its extent and operation is in many cases not readily available, it has been thought advisable to reserve this subject for a later study. For similar reasons apprenticeship regulations have also been excluded, though where minimum-wage laws of general application contain special provisions concerning apprentices a reference has been made to these[2].

Finally, as the present volume deals with less than half the countries in which wage regulation in some form exists, and as some time must elapse before a second volume can be prepared, attention

[1] For an international survey of the legislation and practice concerning collective agreements, see INTERNATIONAL LABOUR OFFICE : *Collective Agreements* (Studies and Reports, Series A, No. 39, Geneva, 1936).

[2] For detailed information on apprenticeship laws and regulations reference may be made to INTERNATIONAL LABOUR OFFICE : *Children and Young Persons under Labour Law* (Studies and Reports, Series I, No. 3, Geneva, 1935) and *Technical and Vocational Education and Apprenticeship* (Grey Report, International Labour Conference, Twenty-fourth Session, Geneva, 1938).

may be drawn to certain other publications of the International Labour Office which contain information from time to time on current developments in the field of minimum-wage regulation. The *I.L.O. Year-Book* notes each year the principal developments in minimum-wage legislation during the preceding twelve months (see in particular the chapter on " Remuneration of Labour " and additional references in the index under names of countries and classes of workers). More detailed notes are included from time to time in the weekly *Industrial and Labour Information*, and occasional articles dealing with the experience of particular countries are published in the monthly *International Labour Review*. In the *Legislative Series* (separate prints and annual volumes) translations or reproductions of minimum-wage laws are made available. Finally, the *Summary of Annual Reports under Article 22 of the Constitution of the International Labour Organisation* (published annually for submission to the International Labour Conference) contains information furnished to the Office by countries which have ratified the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26).

AUSTRALIA

Introduction

The machinery of wage regulation in Australia is complex by reason of the dual control which results from a Federal Constitution. In addition to the Commonwealth system, there are the separate systems which operate in the various States, and problems of great difficulty have been created by the existence of conflicting or overlapping jurisdictions in the sphere of industrial relations. This particular aspect of the question of wage regulation is so wide, however, that it can only be mentioned in passing in this study[1].

The general methods on which the Commonwealth and State tribunals operate are in their broad outlines similar. In most cases a basic or living wage is declared, and on this foundation there is erected a complex superstructure of minimum rates for various occupations and grades of skill. The system is slightly different in the two States of Victoria and Tasmania, where Wages Boards operate. No living wage is declared by these tribunals, but of recent years they have been more and more influenced by the declarations of the Commonwealth Court; and since 1936 the Victorian Wages Boards have been required to incorporate the provisions of corresponding Commonwealth awards in their decisions, except where such provisions conflict with the laws of the State.

In addition to the system of regulation by special tribunals, which constitutes the main form of wage regulation in Australia, there are provisions in the legislation of certain States for statutory minimum rates of wages for workers in factories and shops. The

[1] See pages 33-36 below. For detailed discussion of the problem reference may be made to *Studies in the Australian Constitution* (edited by G. V. Portus, Sydney, Angus and Robertson, 1933); W. A. Holman: *The Australian Constitution: Its Interpretation and Amendment;* T. C. Brennan, K.C.: *Interpreting the Constitution* (Melbourne University Press, 1935); G. Anderson: *Fixation of Wages in Australia* (Melbourne University Press, 1929), Chap. VI; and O. de R. Foenander: *Towards Industrial Peace in Australia* (Melbourne University Press, 1937), pp. 29, 38, 271 *et seq.*

practical effect of such statutory minima is, however, limited, since most of the workers concerned are entitled to higher rates under awards, agreements or determinations sanctioned by the various tribunals.

The first instance of wage regulation in Australia by special tribunals is found in Victoria, where a system of Wages Boards was set up in 1896. In 1892 and 1899 Acts were passed in New South Wales providing for the voluntary submission of disputes to arbitration. These proved ineffective, and the broad lines of the present system were laid down in 1901. In South Australia and Western Australia wage regulation began in 1900; in Queensland in 1907, and in Tasmania in 1910. The Commonwealth Arbitration Court began to operate in 1905, and in 1907 occurred the first decision defining what constituted a living wage. Not for many years however did the State tribunals follow suit. The first living-wage declaration in New South Wales was in 1914, in Queensland and South Australia in 1921 and in Western Australia in 1926.

From time to time various modifications have been made in the methods of wage regulation, as for example the introduction in post-war years of the use of index numbers of retail prices for the automatic adjustment of basic and other minimum rates to changes in the cost of living. Special interest attaches to the developments which have taken place in the methods of determining the basic wage, and certain aspects of this subject are dealt with in the final section of this monograph.

It may be noted, finally, that the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), was ratified by Australia in 1931.

Legislation at present in Force

COMMONWEALTH

THE COMMONWEALTH CONCILIATION AND ARBITRATION ACT, 1904-1934, AS AMENDED[1]

Objects

The aim of this legislation is " to promote goodwill in industry

[1] For amendments 1904-1928 see I.L.O. *Legislative Series*, 1928, Austral. 2; for Commonwealth Conciliation and Arbitration Act, 1930, see *Legislative Series*, 1930, Austral. 11; and for Commonwealth Conciliation and Arbitration Act, 1934, *Legislative Series* 1934, Austral. 15.

by conciliation and arbitration "[1]. For the purpose of bringing about good relations between employers and employees, representatives of organisations registered under the Act may, in the case of a dispute, be summoned to a compulsory Conciliation Conference convened either by a Conciliation Commissioner[2] or by a Judge of the Commonwealth Court of Conciliation and Arbitration; and in the absence of a voluntary agreement, proceedings before the Court will lead to an award binding on both parties. This in effect means that the Court is a wage-fixing authority, since in the bulk of industrial disputes the question of wages has major importance.

The Court has, in addition, the power of fixing the basic rate of wages payable to adult unskilled workers and is empowered, subject to certain conditions, to vary these rates or the method of computation. In applying this legislation the Federal Arbitration Court has adopted as its definition of the basic wage "the normal needs of the average employee regarded as a human being living in a civilised community "[3]. The Court is thus concerned, not merely with the settlement of disputes, but with the safeguarding of a certain standard of living below which it is considered a worker should not fall. It is also required to take into account not merely the interests of the parties in any dispute but also those of "society as a whole "[4].

Scope

The jurisdiction of the Commonwealth Arbitration Court is limited to disputes arising or threatening to arise between individual employers or registered unions or associations of employers on the one hand, and individual workers or registered unions of workers on the other, and "extending beyond the limits of any one State ". Registration under the Act is limited to any employer or association of employers in any industry who has employed not less than 100 employees on a monthly average during six months preceding application for registration, and any association of not less than 100 employees in any industry. In practice the types of workers' unions registered vary greatly, ranging from small independent associations to large inter-State organisations, and including associations from the public service, municipalities, and banking and

[1] Commonwealth Conciliation and Arbitration Act, 1930, section 2.
[2] Since April 1935 the Office of Conciliation Commissioner has been vacant.
[3] Cf. *Commonwealth Arbitration Reports*, Vol. II, p. 1, and COMMONWEALTH BUREAU OF CENSUS AND STATISTICS : *Labour Report*, 1935, p. 75.
[4] Commonwealth Conciliation and Arbitration Act, 1904-1934, section 3; definition of "industrial matters ".

insurance concerns. Most of the employers' associations are organised on an inter-State basis.

As regards the respective jurisdictions of Commonwealth and State authorities it should however be noted that the High Court of Australia has held[1] that " a State law is inconsistent, and is therefore invalid, so far as its effect, if enforced, would be to destroy or vary the adjustment of industrial relations established by the Commonwealth's award with respect to the matters formerly in dispute ". The same applies to an award of a State industrial authority. The effect of this decision has been to reduce the number of overlapping awards. Under Commonwealth law also, a Federal Tribunal may order a State industrial authority to cease dealing with any matter which is covered by a Federal award or is the subject of proceedings before a Federal Tribunal[2].

The Commonwealth Arbitration Court has no power to regulate the rates of pay and conditions of employment in the public services of the Commonwealth, which are dealt with by a special tribunal[3]. The High Court has, however, ruled that the Commonwealth Arbitration Court may make awards relating to employees of the State Governments who are employed in undertakings of an industrial character.

Machinery and Method of Fixing Wages

Any duly registered organisation of workers or employers may make an industrial agreement with any other organisation. Such an agreement, if filed under section 24 of the Arbitration Act and certified by a Judge of the Court, has the same binding force as an award of the Court. If however the agreement is filed under Part VI of the Act, it has not the force of an award, although obedience to its terms is expected from the parties to it. In the event of no voluntary agreement being reached in a dispute, the Act provides for the intervention of a Conciliation Commissioner. As however the Office of Conciliation Commissioner has been vacant since April 1935, this provision of the Act is not now operative. In practice, when a dispute has been created and no settlement reached, a Judge of the Court summons representatives of the parties to a compulsory conference. If, as usually happens, no complete agreement is then reached, the judge refers the dispute into Court.

[1] Clyde Engineering Co. Ltd. *v.* Cowburn (1926), 37 *Commonwealth Law Reports*, p. 499.
[2] *New South Wales Official Year-Book*, 1934-35, p. 760.
[3] See p. 12 below.

The Court then decides the unsettled matters in dispute and makes an award covering both these matters and such points as the parties themselves may have agreed on.

The Court consists of a Chief Judge and such other judges as may be appointed. No judge may be removed from office except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity.

In the making of an award the Court is required to act " according to equity, good conscience and the substantial merits of the case, without regard to technicalities or legal forms, and shall not be bound by any rules of evidence ". No directions are given as to the principles to be followed by the Court in fixing minimum rates of wages, but as regards the basic wage for unskilled workers the Act provides that no decision may be made altering the basic wage or the principles on which it is computed or any interpretation or variation of an award given which would result in such alteration, unless the question is heard by the Chief Judge and not less than two other Judges, and the increase or reduction approved by a majority of the members of the Court by whom the question is heard.

The Court may make special provision for the payment of wages less than the minimum award rates to persons who for special reasons are unable to earn those rates. The Court has no power (except within the Federal territory) to make its award a common rule for the whole of the industry to which it applies — a limitation of powers which has frequently been deplored by Judges of the Court [1]. Only those employers who are cited in an application for an award (or are members of an organisation an officer of which is cited) can be bound by the award, and in practice the unions find it necessary to serve logs (i.e. an application for an award and a statement of claims) on all the employers whom they wish to have bound — a procedure which involves much trouble and expense [2].

Awards and agreements are made for a specified period not

[1] It was ruled by the High Court of Australia in Whybrow's Case in 1910 that section 38 (*f*) of the Commonwealth Conciliation and Arbitration Act, which purports to empower the Court to make its award a common rule for an industry, was *ultra vires* the Parliament of the Commonwealth and so invalid. Cf. G. ANDERSON : *Fixation of Wages in Australia*, p. 73, and O. de R. FOENANDER: *Towards Industrial Peace in Australia*, Ch. XI. The Court has, it may be noted, made several common rules for industries in the Northern Territory, including waterside work, mining, and Commonwealth works and services.

[2] It is said that in some cases as many as 10,000 employers must be served in this way (ANDERSON: *op. cit.*, p. 138).

exceeding five years, and after this specified period has expired an award continues in force until a new one is made, unless the Court or Conciliation Commissioner directs otherwise. If the registration of an organisation bound by an award is cancelled, the organisation and its members cease to be bound by it, unless the Court orders to the contrary.

Enforcement

The Commonwealth Conciliation and Arbitration Act and the Regulations made under it are administered by the Attorney-General's Department; and an Industrial Registrar and Deputy Industrial Registrars have been appointed under section 51 of the Act. These officials keep complete lists of registered organisations.

Section 50 A of the Act provides for the appointment of inspectors for the purpose of securing the observance of the Act and of awards and orders made thereunder, and gives the inspectors extensive powers of entry and of inspection, including the examination of books and documents. At the latest date for which information is available, however, only one such inspector had been appointed. In general the Commonwealth awards are policed by the workers' organisations concerned[1]. Accredited union officials are given limited powers to enter factories and workshops for inspection purposes and in the exercise of these powers are regarded by the Court as its officials. The expense involved is however borne by the unions. The system has been much criticised by employers[2].

Failure to comply with the provisions of an award is an offence punishable by fine. It is also an offence punishable by fine for an officer of an organisation to induce members of it not to accept an award or not to work under the terms of a current award.

Any worker who has been paid at less than the award rate of wages is entitled at any time within nine months to sue in any

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[1] Cf. INTERNATIONAL LABOUR CONFERENCE, Twenty-third Session, Geneva, 1937 : *Summary of Annual Reports under Article 22 of the Constitution of the International Labour Organisation*, p. 380. The duties of the one inspector who has been appointed are apparently confined to securing the observance of awards covering " white collar " workers, who are relatively weakly organised and thus not in a position to enforce their awards through their own organisations. (Cf. *ibid.*, and FOENANDER : *Towards Industrial Peace in Australia*, p. 51.)

[2] FOENANDER : *loc. cit.*, p. 51, and ANDERSON : *Fixation of Wages in Australia*, p. 67.

Court of competent jurisdiction for the recovery of the difference between the amount paid and the award rate.

Prosecutions for non-observance of awards are seldom dealt with by the Commonwealth Arbitration Court itself, but frequent prosecutions are taken in the State Courts of Federal Jurisdiction [1].

Application

At the latest date for which information is available (31 December 1936) the following numbers of Commonwealth Awards and Agreements were in force in the respective States [2].

	New South Wales	Victoria	Queensland	South Australia	Western Australia	Tasmania
Awards	113	120	37	92	38	71
Agreements	39	71	22	27	17	42

In reading these figures it must be borne in mind that the same union may be registered in a number of States.

Of greater interest are the numbers of workers covered by the legislation. These are not known at all exactly, but it may be noted that at the end of 1936 the number of unions, interstate and others, registered under the Commonwealth Act, was 138, with a membership of approximately 680,000, representing 81 per cent. of the total membership of all trade unions in Australia [3]. Information is not available as to the proportion of unions registered under the Commonwealth Act which are also registered under State laws.

The range of industries covered by these awards and agreements is comprehensive, including engineering, woodworking, food and drink trades, clothing, printing, building, land transport including railways, shipping, pastoral occupations, banking, insurance, retail and wholesale trades and municipalities. In agriculture, union organisation is confined mainly to pastoral workers and fruit harvesters, and Commonwealth awards in fact exist only for these groups. The important pastoral industry, however, employs the largest number of wage-paid workers among rural industries and

[1] INTERNATIONAL LABOUR CONFERENCE, Twenty-third Session, Geneva, 1937 : *Summary of Annual Reports under Article 22*, p. 380. The Commonwealth Arbitration Court deals on an average with some three or four cases of breaches of awards each year.

[2] COMMONWEALTH BUREAU OF CENSUS AND STATISTICS : *Labour Report*, 1936 (Canberra, 1937), p. 50.

[3] COMMONWEALTH BUREAU OF CENSUS AND STATISTICS : *Labour Report*, 1936, p. 142.

the effect of the awards is appreciable beyond the confines of the unions concerned [1].

The Arbitration (Public Service) Act, 1920-1934

The object of this Act is to regulate the rates of pay and conditions of work in the public services of the Commonwealth. The Governor-General is empowered to appoint for a term of seven years a Public Service Arbitrator, who determines all matters submitted to him relating to salaries, wages, rates of pay, hours, and conditions of service or employment of officers and employees of the Public Service. There is no appeal against his decision, but his rulings do not come into operation until they have been laid before both Houses of the Commonwealth Parliament, and they may be disallowed by a resolution of either House.

The basic wage for adult male officers at July 1935 was £174 per annum [2].

The Industrial Peace Acts, 1920

These Acts provide for the establishment of Commonwealth and District Councils of Industrial Representatives to deal with industrial disputes extending beyond the limits of any one State. In addition, special tribunals may be appointed for the prevention and settlement of any dispute.

Special tribunals have been appointed for the coal and coke industries.

According to information supplied by the Commonwealth Government, these Acts " are very little availed of at present " [3].

Northern Territory

The Commonwealth Conciliation and Arbitration Act is applicable to the Northern Territory. In addition the Aboriginals Ordinance, 1918-1937, contains provision for minimum wages for Native workers [4].

[1] Cf. D. B. Copland and O. de R. Foenander : " Agricultural Wages in Australia " in *International Labour Review*, Vol. XXV, No. 6, June 1932, p. 765.

[2] New South Wales : *Official Year-Book*, 1934-35, p. 765.

[3] International Labour Conference, Twenty-third Session, Geneva, 1937 : *Summary of Annual Reports under Article 22*, p. 358.

[4] See *Legislative Series*, 1933, Austral. 2 (Regulations only).

Wage Regulation in the Federal Capital Territory

Rates of pay and conditions of work in the Federal Capital Territory are regulated under the Industrial Board Ordinances, 1936 and 1937. The Industrial Board has power to hear and determine all matters relating to wages and conditions of employment, but has no jurisdiction over Commonwealth officers or private employees to whom an award of the Commonwealth Arbitration Court is applicable. The Board has power to declare any wage or condition of employment fixed by it to be a common rule of employment in the Territory.

The Industrial Board consists of a Chairman and four members appointed for a term of from one to three years by the Governor-General. The four members represent respectively the Commonwealth, the private employers, the Commonwealth employees and private employees. The Minister of a Department, the Public Service Board, and registered associations are entitled to submit to the Board matters relating to salaries, etc., in the Territory, and are entitled to be represented at the hearing of any such matters.

Any private employee, at any time within nine months from any payment of wages, in accordance with a Board determination, becoming due to him, may sue for and recover the same in any court of competent jurisdiction[1].

At the end of 1935 the number of members of trade unions registered in the Federal Capital Territory was 1,058; and Industrial Board Ordinances covered a considerable range of occupations, including building, quarrying, transport and timber-milling[2].

STATES

Regulation by Special Tribunals

Legislation

The Acts providing for wage regulation in the various States by special tribunals are as follows[3] :

New South Wales : The Industrial Arbitration Acts, 1912-1937.

Victoria : Factories and Shops Acts, 1928-1936.

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[1] Communication to the I. L. O.

[2] Commonwealth Bureau of Census and Statistics : *Labour Report*, 1935, pp. 54 and 127.

[3] Most of these Acts and their amendments are reprinted in the International Labour Office's *Legislative Series*. Cf. page 47.

Queensland : The Industrial Conciliation and Arbitration Acts, 1932-1937.
South Australia : The Industrial Acts, 1920-1936.
Western Australia : Industrial Arbitration Act, 1912-1925.
Tasmania : The Wages Boards Act, 1920, as amended.

Objects

The full titles of the various State laws set out in general terms the objects of the legislation. In the case of *New South Wales* and *Queensland* the Acts are " to provide for the regulation of the conditions of industries by means of conciliation and arbitration "[1], and to establish an Industrial Commission, and an Industrial Court respectively. In *Victoria* the law relates " to the supervision and regulation of factories and shops and to other industrial matters "[2]. More detailed objects of the legislation are in all cases set out under the powers conferred on the respective tribunals. Similar general objects apply in the case of *South Australia* and *Western Australia*. In *Tasmania* the legislation provides for Wages Boards.

Scope

The jurisdiction of the various tribunals differs from State to State. In *New South Wales* the Industrial Commission is empowered " to enquire into and determine any industrial matter referred to it by the Minister "[3], or, when a Conciliation Committee fails to make an order or award, to consider the case.

Employees, in order to come within the scope of the Act, must register under the Trade Union Act of 1881-1936; and then they must register as an industrial union under the Industrial Arbitration Act. In the case of employers, any person or association of persons, who or which has in the aggregate throughout the six months next preceding the date of the application for registration employed on an average taken per month not less than fifty employees, may register as an industrial union of employers. Crown employees with the exception of the Police have access to the ordinary industrial tribunals for the regulation of conditions of employment[4]. Employees in rural industries were, under the

[1] New South Wales : Industrial Arbitration Act, 1912, No. 17; Queensland : Industrial Conciliation and Arbitration Act, 1932, No. 36.
[2] Victoria : Factories and Shops Act, 1928, No. 3677.
[3] New South Wales : Industrial Arbitration (Amendment) Act, 1926, section 7 (1) (*a*).
[4] *Official Year-Book of New South Wales*, 1934-35, p. 764.

provisions of the Industrial Arbitration (Amendment) Act No. 41 of 1929, excluded from the operation of the arbitration system.

In *Victoria* regulation of the conditions of employment may apply to any industry for which a Wages Board has been appointed, and to this end wide powers are given to the Governor in Council. Somewhat similar provisions apply in the case of *Tasmania*, where a Wages Board system is also in operation. In both cases agricultural and pastoral pursuits are specifically excluded from the operation of the machinery set up. In both these States prior registration of unions of employees or employers is not necessary in order to have regulation applied to them; except that in the case of Tasmania special provisions relate to employers and employees entering into industrial agreements.

The Act in *Queensland* applies to all callings and persons including Government servants, but does not relate to State children, within the meaning of the State Children Acts, 1911 to 1928. The Governor in Council is also empowered from time to time to declare that any person or class of persons shall be excepted from the operation of the Act, and according to latest information there are no awards relating to domestic service or agriculture[1]. Unions of employers and of employees may be registered as industrial unions under the Act. In the case of employees there is no prescription as to the minimum number required to form a union; but in the case of employers it is required, as in *New South Wales*, that in the preceding six months not less than fifty employees on an average shall have been employed. The law in *South Australia* relates to all industrial matters and includes the regulation of the conditions of employment of Government servants. The definition of " industry ", however, excludes agriculture, which includes horticulture and viticulture. Questions may be submitted to the Court by the Minister, by an employer or employers of not less than twenty employees in the industry concerned, or by not less than twenty employees or an association of not less than twenty employees.

The jurisdiction of the tribunals in *Western Australia* extends to all industrial occupations. The definition of " worker " excludes persons engaged in " domestic service " and any person or officer employed under the Public Service Act, 1904, any officer within the meaning of that word in the Railway Classification Board Act, 1920, and the teaching staff of the Education Department. Regis-

[1] INTERNATIONAL LABOUR CONFERENCE, Twenty-third Session, Geneva, 1937 : *Summary of Annual Reports under Article 22*, p. 372 (under Queensland).

tration of workers and of employers is required under the Act. Not less than fifteen workers may register as a Union; and any two or more employers who have employed on a monthly average during the six months preceding application for registration not less than fifteen workers may also register.

The Industrial Court in *Queensland*, the Board of Industry in *South Australia* and the Court of Arbitration in *Western Australia* are empowered to make declarations relating to a living wage. Until 1937 the *New South Wales* Industrial Commission possessed a similar power, but this has been superseded by a provision requiring the Commission to adopt the same basis for wage assessment as is adopted by the Commonwealth Court. No living-wage declarations are made in *Victoria* or *Tasmania*, though frequently declarations of the Commonwealth Court are used by the Wages Boards as a basis for making awards [1]. The practice of the various tribunals as regards the living wage will be discussed in greater detail in a later section of this monograph.

Awards and determinations of the various State tribunals, unlike awards of the Commonwealth Court, either automatically constitute, or may be declared to be, a common rule for the industries or callings and the localities to which they apply. In certain circumstances, however, exemptions may be granted in respect of particular undertakings.

Machinery and Methods of Fixing Wages

New South Wales

In New South Wales the principal tribunal is the Industrial Commission set up under the Industrial Arbitration (Amendment) Act of 1926. The former Court of Arbitration is still nominally part of the arbitration machinery, but its major powers have been transferred to the Commission. Four members are appointed by the Governor, one of whom is the President of the Commission. To be eligible for appointment, a person must be either a Judge of the Supreme Court, a District Court Judge, a barrister of not less than five years' standing or a solicitor of not less than seven years' standing. Members of the Commission have the status of puisne Judges of the Supreme Court and hold office during good behaviour.

New South Wales is the only State which has given its subordinate tribunals of the Wages Board type strictly conciliatory functions.

[1] Cf. *Victorian Year-Book*, 1934-35, p. 216, and E. J. R. HEYWARD: "The Tasmanian Wages Board System" in *The Economic Record*, Vol. XII, No. 22, June 1936, p. 110.

There are about 300 of these Conciliation Committees, as they are called, functioning. Each Committee has been established in connection with one particular industry or calling, or a group of industries or callings, and consists of such an equal number of representatives of employers and of employees respectively as are recommended by the Industrial Commission and appointed by the Minister for Labour and Industry.

There is also a Conciliation Commissioner, who exercises the jurisdiction and powers of the Industrial Commission in all matters referred to him by the Commission. An appeal lies to the Commission against any order or award made by him. The Conciliation Commissioner is the Chairman of all Conciliation Committees, and he may elect to sit with or without the members of a Committee; in the former case they sit as assessors only, and without vote. The chief function of the Conciliation Commissioner is to try to bring the parties concerned, when he is sitting without the members of the Committee, or the members of a Committee, when he is sitting with them, to an agreement with respect to the matters contained in any application or reference. Should an agreement be reached it becomes an award. Any party affected may appeal to the Industrial Commission from the award. Where no agreement has been reached, or where agreement has been reached only in respect of some of the matters contained in an application or reference, the Conciliation Commissioner must refer the application or undetermined part to the Commission for adjudication.

Proceedings before the Commission or the Committees are usually initiated by an application from a registered union of employers or of workers, or from employers of not less than 20 employees, but the Minister responsible for the administration of the Act may refer a matter to the Commission if he thinks fit.

The manner in which regulation of wages and conditions of employment may be brought about is threefold. A union of employees may make and file an agreement with an employer or association of employers; and this will be recognised as binding and enforceable by the Commission. Such an agreement may not be for a longer period than five years.

Secondly, an order having the same binding effect as an award of the Commission may be made by a conciliation committee for any particular industry : but an appeal lies to the Commission by any of the parties against the decision of a Committee.

Lastly the Commission may make an award; and within thirty days of publication in the Government *Gazette* any of the parties

may make application for a variation of the award or for a rehearing of the question. Awards are made for a period specified, but such period may not be longer than three years. After the expiry of the specified period an award or order is still binding until varied or rescinded.

No minimum rate of wages for adult male workers fixed in an award or industrial agreement may be less than the " needs basic wage " of the Commonwealth Court (together with any fixed loading addition) which is currently applicable having regard to the industry and area concerned. In the case of adult female employees the minimum must not be less than *(a)* 54 per cent. (to the nearest sixpence) of the male needs basic wage with its appropriate loading addition; or *(b)* an amount equivalent to such percentage (whether greater or less than 54 per cent.) of the total sum which comprises such needs basic wage with the appropriate fixed loading addition applied by the Commonwealth Court in an award made by it for adult female employees in New South Wales in that industry in which the adult female employees affected by the award or agreement in question are engaged.

In general the awards of the Commission prescribe for various occupations and grades of workers minimum wages higher than the basic minima to which reference has just been made, and the higher rates are calculated or assessed by reference to the basic rates. Both the basic rates and such rates as are fixed by reference to them are in general subject to automatic adjustment at quarterly intervals in accordance with movements in the cost of living.

Any aged, infirm or slow worker, however, who may consider himself unable to earn the minimum wage prescribed by an award may apply to the registrar for a licence to work for a lower wage. The registrar is to decide on what conditions such a permit shall be granted and is bound to notify the secretary of the industrial union of the trade in which the applicant desires to be employed under the permit. The union may apply to the registrar for the cancellation of the permit; and no appeal lies from the registrar to the Court except on the ground that the trade or calling is one in which no such permit should be granted.

Victoria

Three types of tribunals are provided for in Victoria. The principal ones are the Wages Boards and the Court of Industrial Appeals. The third type, known as Trade Tribunals, may be set up in certain special circumstances.

A Wages Board may be set up in any industry or trade by proclamation of the Governor in Council if application therefor is made either by a union or by a meeting of employees and if the Minister responsible finds that there is good reason for the appointment of a Board. The Board may consist of from six to ten members (half elected by employers and half by employees) who nominate some outside person as chairman[1].

Provision is also made for the appointment of a General Wages Board to fix wages and conditions in any trades or branches of trades specified by the Governor in Council and not subject to the determination of any other Wages Board.

The Court of Industrial Appeals consists of *(a)* a President (who must be a Judge of the Supreme Court), who is appointed by the Governor in Council, holds office as long as the Governor in Council thinks fit, and sits in every Court of Industrial Appeals; and *(b)* two other members, one representing the employers and one the employees. Each of these two members must, for at least six months during the three years immediately preceding his nomination by employers or employees, have been actually engaged in the trade concerned in the case which is before the Court, and each of them acts only in the Court for which he is appointed.

The function of the Court is to hear appeals made against the determination of a Wages Board. Reference to the Court may be made by majority vote of the representatives of the employers or of the employees upon a Board. Any employer or group of employers of 25 per cent. or more of the workers in the trade, or 25 per cent. of the workers themselves, may also appeal to the Court against a Wage Board determination. The determination of the Court is final and without appeal, provided that after the passing of twelve months a Board may review or alter the determination without leave of the Court. When any determination is being considered by the Court it is instructed to see whether the determination " has had or may have the effect of prejudicing the progress, maintenance of, or scope of employment in the trade or industry affected... "; and to " make such alterations as in its opinion may be necessary to remove or prevent such effect and at the same time to secure a living wage to the employees in such trades or industry... "[2].

The Wages Board has power to fix the rates of payment either

[1] *Victorian Year-Book*, 1928-29, p. 393, and 1934-35, p. 216.
[2] Victoria : Factories and Shops Act, 1928, section 183.

by piece work or wages, or both; and to fix overtime rates and special rates for casual work.

Determinations of a Board stand until altered by the Board or by the Court of Industrial Appeals. The Governor in Council may, however, by order published in the Government *Gazette*, suspend the operation of the determination of any Wages Board for a period not exceeding six months. A person may also dispute the validity of any determination of any Wages Board by applying to the Supreme Court for a rule calling on the Chief Inspector to show cause why the determination should not be quashed either wholly or in part.

No State basic wage is declared in Victoria. The Wages Boards determine the minimum wage to be paid for various grades of workers in the undertaking concerned; but up to 1934 the Boards followed the rates of the Commonwealth Court to a large extent[1]. With the passing of the Factories and Shops Act No. 4461 of 1936, it became obligatory on all Wages Boards to adopt Commonwealth award rates and conditions, so far as the provisions of such awards are not in conflict with the provisions of State law. Under the Factories and Shops Acts Wages Boards are also empowered to make provision in their determinations for the automatic adjustment of wages according to cost-of-living index numbers.

As in the case of New South Wales, provision may be made for lower rates than the minimum prescribed in determinations, to be paid to aged, infirm or slow workers; but very few Boards have exercised their power to fix such lower rates. The Chief Inspector is empowered to grant to an applicant a licence for a period not exceeding twelve months to work at a prescribed lower wage. No employer may have a number of licensed slow workers greater than one-fifth of the workers paid at the award rates, though one such worker may be employed.

Under the provisions of the Factories and Shops Act, 1936, the powers of Wages Boards have been extended to enable them to deal with any " industrial matter " other than that of preference of employment to members of trade unions, and a General Board may be appointed to deal with employees in such trades as may be prescribed from time to time and as are not already subject to a Board.

Finally, mention must be made of the Trade Tribunals noted

[1] COMMONWEALTH BUREAU OF CENSUS AND STATISTICS: *Labour Report*, 1935, No. 26, p. 83.

above. Section 40 of the 1934 Act aims at preventing evasions of the determinations of the Bread Trade Board by means of contracting and similar devices. In any Court case where the defendant raises the defence that he is not the employer of the person who is deemed to be underpaid, the proceedings must be transferred at once to a Bread Trade Tribunal. This consists of a Judge of the County Court of Victoria, one representative of employers nominated by the employers' representatives on the Board whose determination is alleged to have been contravened, and one representative of employees similarly nominated. In dealing with the matter the Tribunal is not bound by legal forms but is guided by the " real justice of the matter ", and directs itself by the best evidence procurable, whether that evidence would be acceptable in a Court of law or not. If the Tribunal is satisfied that the relationship between the parties is in substance that of employer and employee, or that the relationship is one devised to evade the Wages Board determination, it determines accordingly and may inflict heavy penalties. The decision of the Tribunal is final and without appeal. Similar Tribunals have been appointed for certain other trades and the Governor in Council has power to appoint such a tribunal in any specified trade [1].

Queensland

The Industrial Conciliation and Arbitration Act, 1932-36, sets up an Industrial Court consisting of a President who is a Judge of the Supreme Court of Queensland, and two other members. The members are appointed by the Governor, the ordinary members holding office for seven years. The President or any other member sitting alone constitutes the Court, except when the Court makes declarations as to basic wages and standard hours. It must then be constituted by the President and two members.

Regulation may take place either through agreements or awards. Any industrial union may make an agreement in writing, for a term not exceeding three years, with an industrial association of employers or some specified employer or employers relating to any industrial matter. Such industrial agreement when duly filed is binding on the parties and enforceable in the same manner as if it was an award of the Court.

Members of the Court have the power to summon compulsory

[1] INTERNATIONAL LABOUR CONFERENCE, Twenty-third Session, Geneva, 1937 : *Summary of Annual Reports under Article 22*, p. 382 (under Victoria).

conferences and if agreement is arrived at in this way an order may be made having the force of an award.

Finally the Court may, upon reference by an industrial union, or employer, or any twenty employees in any calling, or the Minister, or of its own motion, regulate the conditions of any calling or callings by an award. No appeal lies from a decision of the Court, except that any member of the Court may, if he thinks fit on application of any party bound by any decision or award, state a case in writing for the opinion of the full bench consisting of such members of the Court as the President requests.

In fixing rates of wages in any calling the Court is required to prescribe the same wage for " persons of either sex performing the same work or producing the same return of profit to their employer "; and it is also " entitled to consider the prosperity of the calling and the value of an employee's labour to his employer in addition to the standard of living "[1]. The Court also has power to prescribe " the number or proportionate number of aged or infirm workers... that may be employed by an employer, and the lowest prices or rates payable to them "[2].

The Court may from time to time make declarations as to the cost of living, the standard of living, or the basic wage for males or females. A declaration as to the basic wage must be made by a Court consisting of the President and two members. The basic wage of an adult male employee must be not less than is " sufficient to maintain a well-conducted employee of average health, strength, and competence and his wife and a family of three children in a fair and average standard of comfort, having regard to the conditions of living prevailing among employees in the calling in respect of which such basic wage is fixed, and providing that in fixing such basic wage the earnings of the children or wife of such employee shall not be taken into account ". The basic wage of an adult female employee is to be not less than is " sufficient to enable her to support herself in a fair and average standard of comfort, having regard to the nature of her duties and to the conditions of living prevailing among female employees in the calling in respect of which such basic wage is fixed "[3]. In making declarations as to the basic wage the Court is also required to take into consideration

[1] Queensland : Industrial Conciliation and Arbitration Act, 1932, section 8 (1) (i) (*a*)-(*b*).
[2] *Ibid.*, section 4, definition of " industrial matters ".
[3] Queensland : Industrial Conciliation and Arbitration Act, 1932, section 9 (3) (ii)-(iii).

the " probable economic effect of such declaration in relation to the community in general and the probable economic effect thereof upon industry or any industry or industries concerned "[1].

When a declaration as to the basic wage is made during the currency of an award the terms of such award affecting rates of pay are varied by the Registrar (subject to an appeal to the Court), to accord with such declaration.

Awards continue in force for a period specified not exceeding twelve months, but after the expiration of this period they remain in force until fresh ones are made.

South Australia

In South Australia the principal industrial tribunal is called the Industrial Court; there are also industrial boards for the various industries, and a Board of Industry.

The Court is constituted by a President or a Deputy President or any two or more of them together. The President is a person eligible for appointment as a Judge of the Supreme Court and a like qualification is specified in the case of Deputy Presidents, who do not normally exceed one in number. When the Court sits for the purpose of finally adjudicating upon an industrial matter the President may be joined by two assessors, who must be engaged or employed in the industry concerned during the three years immediately preceding appointment by the President. One assessor is nominated by employers and the other by employees.

The Court has no jurisdiction over any industrial matter for which at the time an industrial board has been or is in course of being appointed, save in respect of appeals against a determination of the board, references by the Minister of Labour with respect to a determination of a board, applications to refer a determination back to a board for reconsideration, and cases where a board reports that it is unable to deal satisfactorily with a question. By these provisions the work of the Court and of the boards is prevented from overlapping.

Industrial boards are constituted for any industry or group of industries by the Minister of Labour on the recommendation of the Board of Industry. Such boards consist of a chairman nominated by a majority of the members, and of four, six or eight other members, one-half of whom are representatives of employers and are actually

[1] Queensland : Industrial Conciliation and Arbitration Act, 1932, section 9 (3) (iv).

engaged in the trade or industry in question, and the other half of whom are *bona-fide* employees in that industry. The term of office is three years.

The functions of these boards include the determination for the trade or industry in question of the lowest rates of wages payable to employees (but not less than the declared living wage) and of overtime rates.

Proceedings before a board are begun by reference to the board by the Governor or by the Court or by the Minister; or by application to the board by employers or employees in the industries or callings concerned. The determination of the board is binding, but an appeal lies to the Court against a determination of the board. A determination remains in force during a specified period not exceeding three years, save that after it has been in force for a year the Court may refer the determination back for reconsideration.

The Board of Industry is composed of a President, who is the president or deputy-president of the Industrial Court, and four Commissioners, two of whom are representatives nominated by employers, and two by workers. Their term of office is three years. The functions of the Board include the grouping of industries and the making of recommendations to the Minister of Labour regarding the appointment and dissolution of industrial boards; and the declaration of a living wage.

It is provided that the Board of Industry shall hold an enquiry for the purpose of declaring the " living wage " whenever a substantial change in the cost of living or any other circumstance has rendered it just and expedient to review the question, but a new determination cannot be made by the Board until the expiration of at least six months from the date of its previous determination. " Living wage " is defined in the Acts as " a sum sufficient for the normal and reasonable needs of the average employee living in the locality where the work under consideration is done or is to be done "[1]. The family unit is not specifically defined in the Code but the South Australian Industrial Court in 1920 decided that the " average employee " in respect of whom the " living wage " is to be declared is a man with a wife and three children[2].

It is prescribed *inter alia* by the Industrial Code Amendment Act, 1935, sections 5 and 6, that where a determination of the Board

[1] South Australia : Industrial Acts, 1920 to 1935, section 5.

[2] COMMONWEALTH BUREAU OF CENSUS AND STATISTICS : *Labour Report*, 1935, No. 26, p. 85.

of Industry increases or decreases the living wage for adult male and female employees, the effect on current awards shall be as follows :

" Every weekly wages price or rate prescribed by or pursuant to that award or order shall be increased or decreased by an amount equal to six times the increase or decrease in the living wage per day; and every wages price or rate so prescribed for any other period shall be increased or decreased proportionately, according to the ratio borne by that other period to the normal working week in the particular industry or calling : Provided that every annual salary so prescribed shall be increased or decreased by three hundred and three times the amount of the increase or decrease in the living wage per day. "

Aged, infirm or slow workers may apply to the Chief Inspector for a licence to work at a lower rate than the minimum prescribed by an award. Such a licence may be granted for a period not exceeding twelve months; and the Act limits to one-fifth the proportion of such workers which may be employed by any employer. This limit may however be exceeded with the consent of the President of the Court.

Western Australia

The system in force at present makes provision for a Court of Arbitration, industrial boards, conciliation conferences and commissioners.

The Court of Arbitration consists of three members appointed by the Governor. The President of the Court enjoys the same status and tenure of office as a Judge of the Supreme Court. Of the two other members one is nominated by industrial unions of employers and the other by industrial unions of workers. These members are appointed for a term of three years and are eligible for reappointment.

An industrial board may be appointed by the Governor, on the recommendation of the Court, for any calling, industry or undertaking. Each such board consists of a chairman and two or four other members, one-half of whom are nominees of employers and one-half nominees of workers in the calling or industry concerned. The chairman of the board is appointed by the nominated members; but if they are unable to agree on an appointment, the Governor on the recommendation of the Court appoints the chairman.

Commissioners may be appointed by the Minister for the purpose of settling any industrial dispute, and are empowered to call a compulsory conference of the parties concerned.

The functions of the industrial boards include the making of an

award in any industrial dispute remitted to the board by the Court; and the making of recommendations to the Court as to the regulation of any calling for the purpose of enabling the Court to make an award.

The Court of Arbitration has jurisdiction to deal with and determine all industrial matters referred to it by any party or parties under the Act, or on account of which a compulsory conference has been held, but no agreement reached. The decision of a majority of the members present at a sitting of the Court is final : and no appeal lies against a decision except where a decision involves imprisonment or a fine exceeding £20. An appeal lies to the Court against any award of an industrial board by any person bound by the award or any industrial union interested, and such appeal is by way of rehearing or by case stated.

The Court may by any award prescribe a minimum rate of wage with special provision for a lower rate being fixed (by such tribunal or person in such manner and subject to such provisions as the Court may think fit to prescribe in the award) in the case of any worker who is unable to earn the prescribed minimum by reason of old age or infirmity. No minimum rate of wages can be prescribed which is less than the basic wage determined under the Act or, if there is no such determination applicable, which is not sufficient to enable the average worker to whom it applies to live in reasonable comfort, having regard to any domestic obligations to which such average worker would be ordinarily subject.

Before the fourteenth day of June in every year the Court of its own motion is bound to declare a basic wage for male and female workers, and wherever necessary differential basic rates for special or defined areas of the State. The definition of basic wage is " a sum sufficient to enable the average worker to whom it applies to live in reasonable comfort, having regard to any domestic obligation to which such average worker would be ordinarily subject "[1]. In applying the basic wage to industrial agreements and awards under which employees receive free board and lodging the Court assesses an appropriate set-off.

The Industrial Arbitration Act Amendment Act, 1930, provides that the State Government Statistician shall, at the end of every quarter in the year, supply to the Court index numbers relating to the variation in the cost of living. If the statement shows that

[1] Western Australia: Industrial Arbitration Acts, 1912 to 1925, section 121 (2).

the variation is one shilling or more per week, then the Court of its own motion may adjust and amend the declared basic wage. The basic wage prescribed in every award current is also automatically increased or decreased so that it conforms to the adjusted basic wage.

The family unit is not specifically defined in the Act, but it has been the practice of the Court to take, as a basis of its calculations, a man, his wife and two dependent children [1].

Awards may be made for a maximum period of three years, but they are subject to review on application after they have been in force for not less than twelve months.

Tasmania

Under the Wages Boards Act, 1920-1934, the Governor, on a resolution of both Houses of Parliament, or if the Houses are not in session, by proclamation, may establish a Wages Board in respect of any trade.

Such Boards are made up of equal numbers of employers' and workers' representatives, together with a chairman appointed by the Governor. The representative members must be actually engaged in the trade for which the Board is set up, and are chosen by the Minister of the Crown administering the Act from nominees put forward by employers and employees in the trade concerned. They are appointed for a period of three years and are eligible for reappointment.

Meetings of each Board are convened by the Minister when required, and the powers of a Board are exercised by a majority of the members present; when the votes for or against any matter are equal the chairman decides the question, but not unless satisfied that the matter cannot otherwise be determined.

The chief powers and functions of Wages Boards are to determine minimum-wage rates, overtime rates, deductions for board or lodging, etc. Any determination made by a Board remains in force for the period specified, not exceeding two years, and thereafter until a fresh determination is made.

The Act also provides that the Chief Inspector may grant to an aged, slow or infirm worker a licence to work at a wage less than the wage fixed by the Board. The licence must specify the wage at

[1] COMMONWEALTH BUREAU OF CENSUS AND STATISTICS: *Labour Report*, 1935, No. 26, p. 86.

which the worker is licensed to work and the period during which it shall remain in force. No employer, without the consent of the Minister, shall employ any number of such licensed workers exceeding one-fifth of the whole number of persons employed by him in the particular trade at the wage fixed for adults.

There is no State basic wage fixed by any State authority in Tasmania, but Wages Boards follow, to a large extent, the rates of the Federal Court and adjust wages in accordance with variations in retail price index numbers [1].

Enforcement

The administration of the legislation of the various States is entrusted to the respective Departments of Labour and provision for inspectors is to be found in all the Acts. The powers granted to inspectors are also identical in the main particulars from State to State and include the right of entering any place where any industry to which an award or order relates is carried on; of asking questions of the employer and employees; of examining time and pay sheets of employees; and of seeing that awards and orders are posted in a conspicuous place for the information of the workers concerned.

In *New South Wales* special courts, known as Industrial Magistrates' Courts, have been created to hear and determine alleged breaches of awards and industrial agreements. Prosecutions for breaches are taken by Ministerial direction in those cases falling within departmental policy. The secretary of the industrial union of workers in the industry concerned is empowered by the Act to take proceedings in case of breaches of awards. An employee may recover wages due to him under an award at any time within six months after the money has become due.

In *Victoria* the employer is bound to pay his employee the price or rate determined by the Wages Board; and the employee, if he has made demand in writing on the employer within two months after the money became due, may take proceedings in any court of competent jurisdiction to recover the full amount or any balance due, any express or implied agreement or contract notwithstanding.

[1] COMMONWEALTH BUREAU OF CENSUS AND STATISTICS: *Labour Report*, 1935, No. 26, p. 87; and cf. E. J. R. HEYWARD: "The Tasmanian Wages Board System", in *The Economic Record*, Vol. XII, No. 22, June 1936, pp. 109-110. Also see Wages Boards Act (Tasmania), 1933, section 2, substituting a new section 23 (c) in the principal Act. This confers on a Wages Board the power to insert in an award provisions for periodical adjustment according to index numbers.

Prosecution may also be carried out by the officers of the Department of Labour, without expense to the worker, and on a conviction being obtained the Court may make an order for arrears of wages that may be due for any period not exceeding twelve months to be paid.

In *Queensland* wages are recoverable within ninety days but not later than six months after they have become due; and an industrial union may apply to the Court or to an industrial magistrate on behalf of the workers concerned.

In *South Australia* and in *Western Australia* wages are recoverable within twelve months. In *Tasmania* an employee may claim arrears of wages in respect of the period of three months immediately preceding the institution of proceedings, provided that the proceedings must be begun within six months after the amount sought to be recovered became due and payable.

The foregoing paragraphs relate of course only to matters under the control of the State tribunals. Workers under the Commonwealth industrial jurisdiction come under the enforcement provisions of the Commonwealth Conciliation and Arbitration Act, 1904-1934.

Application

The following table[1] gives the numbers of Industrial and Wages Boards authorised, and awards and agreements in force at 31 December 1936 :

Particulars	New South Wales	Victoria	Queensland	South Australia	Western Australia	Tasmania	Total
Industrial and wages boards authorised	319*	189	—	76	19	57	660
Awards and determinations in force...	480	175	296	79	153	58	1,452 (*a*)
Industrials agreements in force....	170	—	223	34	174	10	767 (*b*)

* There were also 295 Conciliation Committees in operation.
(*a*) Including 211 Commonwealth Awards and Determinations.
(*b*) Including 156 Commonwealth Industrial Agreements.

The number of employees covered by State industrial legislation is not known at all exactly. In *Tasmania* it was estimated that in

[1] COMMONWEALTH BUREAU OF CENSUS AND STATISTICS : *Labour Report*, 1936, No. 27, p. 50.

1936 some 23,000 workers came under the operation of wage boards [1]; and for *Victoria* the figure was placed at 226,000 at 31 December 1936 [2]. In the case of *New South Wales and Queensland* annual reports submitted to the International Labour Office state that no statistics exist of the number of employees covered by State awards, but that such awards cover practically all trades and callings with the exception of rural workers, domestic service and those occupations which are covered by Commonwealth awards [3].

The problem of estimating the numbers of workers covered is complicated by the difficulty of knowing how many in each State are covered by Commonwealth awards. Official information on this point is not available, but a well-known authority, Mr. George Anderson, has stated [4] that most of the skilled industries, particularly those in New South Wales, Victoria and South Australia, are working under Commonwealth awards, and that altogether about 480,000 workers are bound by such awards. This would be about thirty per cent. of the total number of wage earners and salaried employees in Australia. In the absence of fuller information on this point it may be recalled that certain occupations are covered neither by Commonwealth nor by State wage regulation. These occupations include rural workers generally (except for pastoral workers) and domestic servants.

The weekly basic rates of wages fixed by the Commonwealth and State tribunals are set out in the following table. The rates indicated are those applicable to adult workers in the capital cities of the various States and are the latest for which information is available [5]. The basic rates for female workers under Commonwealth awards are usually fixed at about 54 per cent. of the corresponding rates for male workers.

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[1] INTERNATIONAL LABOUR CONFERENCE, Twenty-third Session, Geneva, 1937 : *Summary of Annual Reports under Article 22*, p. 372. Cf. E. J. R. HEYWARD : " The Tasmanian Wages Board System " in *The Economic Record*, Vol. XII, No. 22, June 1936, p. 109.

[2] Victoria : *Report of Chief Inspector of Factories and Shops*, year ended 31 December 1936 (Melbourne, 1937), p. 9.

[3] INTERNATIONAL LABOUR CONFERENCE, Twenty-third Session, Geneva, 1937 : *Summary of Annual Reports under Article 22*, p. 372.

[4] In a communication to the International Labour Office dated 6 July 1938.

[5] Comparable figures are published regularly in the *Quarterly Summary of Australian Statistics* published by the Commonwealth Bureau of Census and Statistics.

WEEKLY BASIC WAGE RATES IN OPERATION 1 JULY 1938

Capital City	Commonwealth rates		State rates		
	Male	Effective from	Male	Female	Effective from
	s.		s.	s. d.	
Sydney.....	79 (a)	1 June 1938	79 (b)	42 6	1 June 1938
Melbourne...	77 (a)	,, ,,	(c)	(c)	
Brisbane....	75 (a)	,, ,,	81	43	1 April 1938
Adelaide....	75 (a)	,, ,,	74	36 6	25 Nov. 1937
Perth.....	75 (a)	,, ,,	80	43 2	1 July 1938
Hobart.....	76 (a)	,, ,,	(c)	(c)	

(a) The Commonwealth basic rates include the following prosperity " loadings ": For Sydney, Melbourne, and Brisbane, 6s. per week; for Adelaide, Perth, and Hobart, 4s. per week.
(b) Plus child allowances to the extent of 5s. per week for each dependent child in excess of one, subject to a limitation on the amount of the family income.
(c) There are no State basic wages for Melbourne and Hobart, but State Wages Boards empowered to fix minimum rates of wages for workers in Melbourne and Hobart follow, to a large extent, the Commonwealth Arbitration Court's basic wages for those capitals.

The following table[1] gives the latest available figures relating to the work of the inspectors appointed to supervise the working of minimum wage legislation in the various States. The statistics given are not uniform in their scope and some of the figures relate to inspectorial activities wider than the supervision of the rates of wages paid. Allowance has, however, been made for this fact wherever possible in selecting the figures from the official reports

[1] The sources of the figures are:
New South Wales: Communication to the I.L.O. The figure for wages recovered includes wages paid to employees under settlements negotiated by the Department of Labour as well as amounts recovered through Court proceedings.
Victoria: Report of the Chief Inspector of Factories and Shops for the Year ended 31 December 1936. Melbourne, 1937. The figures relate solely to breaches of Wages Board Determinations.
Queensland: Department of Labour: *Report of the Director of Labour and Chief Inspector of Factories and Shops for Year ended 30 June 1937.* Brisbane, 1937. Most of the complaints related to wages, but the figures for prosecutions and fines include cases concerning other provisions of awards as well.
South Australia: Annual Report on the Working of the Factories and Steam Boilers Department for the Year ended 31 December 1936. Adelaide, 1937. The figures for complaints, prosecutions and fines relate to wages cases only.
Western Australia: Department of Labour: *Annual Report of the Chief Inspector of Factories for 1936.* Perth, 1937. The figures quoted in the table relate solely to the activities of inspectors under the Industrial Arbitration Act. In addition arrears of wages and overtime amounting to £170 were recovered for workers under the Factories and Shops Act.
Tasmania: Department of Public Health: *Annual Report for 1935.* Hobart, 1936.

WORK OF INSPECTORS

State	Complaints received	Prosecutions undertaken	Fines imposed	Inspections made	Arrears of wages recovered	Period
			£		£	
New South Wales.	1,139	597	—	5,646	15,897	Year 1936
Victoria.....	—	310	297	—	1,305	Year 1936
Queensland.....	4,003	410	926	—	11,913	Year ended 30 June 1937
South Australia..	149	38	130	—	2,410	Year 1936
Western Australia.	—	—	11	165	7	Year 1936
Tasmania.....	—	27	—	1,307	895	Year 1935

The sign " — " indicates that information is not available at the time of writing.

Statutory Minimum Wages

In Victoria, Queensland, Western Australia and Tasmania there are statutory minimum rates of wages for workers employed in factories, and in Queensland and Western Australia there is a minimum for shop assistants as well.

The minimum in *Victoria* is a flat rate of 2s. 6d. a week applicable to all persons employed in factories[1]. In *Queensland* the minimum, which applies to both factory workers and shop assistants, is graduated according to age and experience. Workers under 21 years of age must be paid not less than 7s. 6d. a week during the first year of their employment; and during each of the next succeeding five years in the same trade they are entitled to an annual increase of 2s. 6d. a week. Workers of 21 or over without previous experience must be paid 12s. 6d. a week during the first year, 15s. during the second, 17s. 6d. during the third and 20s. in subsequent years. For those with less than five years' experience the minima are 15s. for the first year, 17s. 6d. for the second, and 20s. for subsequent years. Adults with four years' experience are entitled to not less than 17s. 6d. during the first year and 20s. in subsequent years[2].

In *Western Australia* the statutory provision is twofold. In the first place, no person, whether adult or minor, may be employed in any factory, shop or warehouse at a wage less than 10s. a week

[1] Victoria: The Factories and Shops Act, 1928, section 53 (*Legislative Series*, 1929, Austral. 13).

[2] Queensland: The Factories and Shops Acts, 1900-1917, section 45.

in the first year of his employment in the trade, 15s. in the second year, 20s. in the third, and so on by additions of 5s. a week for each year until the wage of 35s. is reached, and thereafter 35s. In the second place, no male or female worker over 21 years of age may be employed in a factory, shop or warehouse at a lesser rate of wage than the lowest minimum rate prescribed for an adult male or female worker (as the case may be) in any award or industrial agreement in force under the Industrial Arbitration Act [1].

In *Tasmania* the minimum for factories other than laundries is 4s. a week during the first year of employment in the trade, rising by annual increments of 3s. to 19s. in the sixth year, and during the seventh and subsequent years is 20s. For laundry workers the minimum varies, according to the age of the worker, from 12s. a week for those aged 16 and under 17 to 24s. a week for those over 20 years [2].

Provision is also made under the same legislation in the various States for minimum rates of payment for overtime.

Information as to the extent to which the minimum wage rates prescribed in these Acts are effective in practice is not available. Such rates as those prescribed in Queensland for young workers and in Western Australia for both young workers and adults may well prevent the rates paid from falling to lower levels; but the flat rate prescribed in Victoria and the rates fixed elsewhere for adults would appear to have little application in practice, in view of the higher rates generally applicable under awards, industrial agreements and wage board determinations. The provisions regarding minimum rates for overtime are, however, believed to be more generally effective.

Some Problems and Results of Wage-Fixing

Brief as it is, the foregoing description of the machinery of wage regulation in Australia should give some indication of its complexity. The problems involved have been no less complex and the practical

[1] Western Australia : Factories and Shops Act, 1920, section 45, as amended by the Factories and Shops Act Amendment Act, 1937, section 18 (*Legislative Series*, 1937, Austral. 9). Permits for employment at less than award rates may, however, be granted, on grounds of old age or infirmity, by the Chief Inspector appointed under the Act.

[2] Tasmania : The Factories Act, 1910, section 63, as amended by the Factories Act, 1911, section 13, and The Factories Act, 1917, section 5.

results of regulation are correspondingly difficult to measure. All that can be attempted in the present study is to call attention briefly to certain aspects of the subject.

The first point to be noted is the problem created by the division of powers between Commonwealth and State authorities. For many years this division gave rise to serious difficulties as the result of overlapping and conflicting awards. The framers of the Australian Constitution had sought to delimit the spheres of operation of Commonwealth and State machinery relating to industrial disputes by confining the jurisdiction of the Commonwealth Court to disputes " extending beyond the limits of any one State ", but successive legal interpretations made it possible for either side in a dispute involving almost any industry, however small and localised, to obtain access to the Commonwealth Court by making common cause with workers or employers in another State. Disputants were naturally inclined to treat the Courts as " rival shops "[1] and to choose the one which seemed likely to give them the better bargain. Where both Federal and State awards existed, organisations were sometimes able to switch from one to the other at will. When, as was at one time the case, " practically every organised industry was regulated, and regulated twice over "[2], the resulting confusion and uncertainty inevitably brought criticism upon the whole system of wage regulation. It is indeed important to note that a considerable part of the criticism directed in Australia at various features of wage regulation has had its origin in difficulties of this kind arising out of the constitutional situation rather than in any inherent characteristics of regulation as such. As more than one writer has remarked, until the power to regulate wages and working conditions throughout the country has been concentrated in the hands of a single authority, " the whole system of wages regulation as undertaken in Australia cannot be said to have had a fair trial "[3].

During recent years, however, as a result of the High Court's decision in Cowburn's Case[4] and the subsequent passage of the Commonwealth Conciliation and Arbitration Amendment Act of

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[1] The phrase is that of Mr. Justice Higgins (*Commonwealth Arbitration Reports*, Vol. XIV, p. 369).

[2] W. A. HOLMAN: *The Australian Constitution: Its Interpretation and Amendment*, p. 37.

[3] G. V. PORTUS: " The Development of Wage Fixation in Australia ", *American Economic Review*, Vol. XIX, No. 1, March 1929, p. 75.

[4] Clyde Engineering Co. Ltd. *v.* Cowburn (1926), 37 *Commonwealth Law Reports*, p. 466.

1928, the main cause of overlapping awards has been removed and the problem, though by no means entirely solved[1], has greatly diminished in importance. Moreover, as a result of the 1936 amendment to the Factories and Shops Act in Victoria, Wages Boards in that State are required to incorporate Commonwealth standards in new determinations covering workers not subject to Commonwealth awards, unless such standards are inconsistent with State law. And in New South Wales, under the Industrial Arbitration (Amendment) Act, 1937, the Industrial Commission is required to adopt, as the basis of assessment of the wage rates fixed in New South Wales awards, the needs basic wage and appropriate " loadings " applied by the Commonwealth Court of Conciliation and Arbitration for the assessment of rates in its awards[2].

Tendencies to uniformity are also evident in other directions. The Commonwealth Court's basic wage, for instance, is watched closely by the wage-fixing tribunals, in other States as well as Victoria and New South Wales, and the uniformity which the Commonwealth Court endeavours to maintain over whole industries under its jurisdiction is undoubtedly influential in reducing wide wage differences in the various States. There still exist, however, discrepancies which create difficulties for industries affected by interstate competition and involve constant risks of industrial unrest. As may be seen from the table on page 31 above, the Commonwealth Court's basic wage is still different in certain States from the basic wage declared by the corresponding State authority. In Queensland, for instance, the State basic wage has been in recent years consistently higher than the Commonwealth basic wage for the same State[3]. Similar discrepancies are observable when the minimum rates of wages actually fixed in Commonwealth and State awards are compared. Different margins for skill are payable in many cases to the same classes of workers in the different States and it is still extremely difficult for the Commonwealth Court to secure equitable treatment for all workers in an industry.

Two main types of proposals have been put forward with a view to overcoming such difficulties as still arise out of the constitutional situation. In the first place it has been suggested that the Consti-

[1] Cf. George ANDERSON : " The Basic Wage in Australia " in *The Economic Record*, Vol. XIV, No. 26, June 1938, pp. 48-49.

[2] Even before the passage of this Act the basic or living wages in Commonwealth and New South Wales awards had in practice been brought fairly close to uniformity. (Cf. *New South Wales Official Year-Book*, 1934-35, p. 779.)

[3] Cf. *The Queensland Year-Book*, 1937, p. 232.

tution be amended to give the Commonwealth authorities sole jurisdiction in interstate matters. Draft amendments designed to achieve this aim have however been decisively rejected when put to the vote. In the second place it has been suggested that additional machinery be established to co-ordinate the decisions of, or to act as a vehicle of co-operation for, the various tribunals[1]. The New South Wales Minister of Labour and Industry suggested, for example, in 1936 that a new tribunal, consisting of the Judges of the Commonwealth and State Courts, be set up to determine basic rates of wages and standard hours for the whole Commonwealth. To make such determinations effective legislation would be needed in each State[2].

The second main point to which attention may be directed concerns the principles which have guided the various wage-fixing tribunals in their work. As will be clear from the analysis of legislation given earlier in this monograph, the fundamental principle of the Australian system, both in the Commonwealth and in the State sphere, is that of the living wage. Even in those cases where the law contains no reference to this principle its importance is in practice great. The various statutory references to it are in any case a relatively late growth in the development of Australian wage regulation. The principle itself, which represents a widespread popular aspiration, was originally adopted as a working standard by the wage-fixing tribunals on their own initiative and it was not until it had acquired the authority of tradition that it came to be incorporated in statute law. As a criterion of wage regulation the principle of the living wage is however no more than a vague and general indication of the purpose of the legislation. It leaves the broadest possible discretion in practice to the wage-fixing tribunals. In the case of the Commonwealth laws indeed the Court is left completely free to determine the principles on which the basic or living wage is to be assessed. Under certain of the State laws specific, though limited, directions are given. Thus in Queensland there is a statutory definition of the family unit on whose requirements the basic wage is to be calculated. In certain cases the general emphasis on the criterion of the worker's needs is supplemented by directions to fix wage rates that will be " fair and reasonable " and in doing so to take into account the average standard

[1] The Commonwealth Conciliation and Arbitration Act already provides (section 35A) for conferences, if desired, between Judges of the Commonwealth Court and State authorities for the purpose of co-ordinating their awards.

[2] *New South Wales Industrial Gazette*, May 1936, p. 850.

of comfort being enjoyed by workers in the same locality or in similar occupations. Such references, it may be noted, involve at least an indirect allusion to general economic conditions and the capacity of industry to pay, since the standards currently enjoyed are closely related to these factors. In at least one case (in Queensland) the Court is specifically directed to examine the probable effects of its decisions upon industry and the community in general.

In practice, as has been noted, the legislation leaves a wide discretion to the tribunals responsible for its application. It is therefore necessary to examine in some detail the principles actually followed by these tribunals. According to an Australian authority [1], three main types of judicial declarations of living and basic wages may be distinguished.

The first is characterised by the " adoption of a particular family or domestic unit in conjunction with a particular standard [of living], instead of the average standard, being enjoyed at the time by living-wage earners " [2]. The earliest and best-known of the living-wage decisions, the " Harvester " judgment, belongs to this class. Mr. Justice Higgins in this case limited his choice of what constituted a " fair and reasonable " wage to the range of rates then current and took as the basis of his standard of living estimates the requirements of a man, wife and three children [3]. Similarly Mr. Justice Heydon, of New South Wales, took as a basis the particular standard then being obtained by a man, wife and two children from the most frequent minimum rate then current, namely, 8s. per day In this and other similar living-wage declarations the living wage arrived at naturally corresponded closely to the rate of wages actually current at the time [4].

The second type of declaration is distinguished by the " assessment of the requirements of a particular family unit at the average standard being enjoyed at the time by living-wage earners, or by

[1] Mr. D. T. SAWKINS, Statist to the New South Wales Industrial Commission. See his *The Living Wage in Australia* (Melbourne, Melbourne University Press, 1933).

[2] *Ibid.*, p. 48.

[3] Cf. *Commonwealth Arbitration Reports*, Vol. II, pp. 1-19, and H. B. HIGGINS : *A New Provision for Law and Order* (London, Constable and Company, 1922), pp. 4-6; and see also Commonwealth of Australia : *Report of the Royal Commission on the Basic Wage* (Melbourne, 1920), pp. 9-13, and *Supplementary Report* (1921), pp. 105-106, and *Commonwealth Arbitration Reports*, Vol. X, pp. 482-483.

[4] In the case of the Harvester judgment, however, Mr. George Anderson points out that the rate fixed, though the same as that paid by certain employers, was considerably above the rates current in most establishments (" The Basic Wage in Australia " in *The Economic Record*, June 1938, p. 51).

wage earners generally "[1]. The amount of the finding in this case was influenced particularly by the size of the family selected. An example is provided by the New South Wales Board of Trade's living wage of 1919. The Board held itself obliged to assess a wage " upon the requirements of husband and wife and the average number of dependent children in the families of the lowest paid class of workers "[2], and took as a basis the family unit which had already been in use in New South Wales, viz. a man and wife and two dependent children. Working on this basis the Board concluded that the amount required for a living wage was £3 17s. per week—an amount 17s. above the last State living wage declared, and 5s. 6d. above the Commonwealth rate. The newly declared living wage came into force gradually, but by the time it had become general prices had risen some 25 per cent. and the wage of £3. 17s. purchased little more than the former rate of £3. When the Board came to make its next declaration the post-war depression was at hand and it decided to limit the wage increase to 10 per cent., thus in effect depressing the standard adopted as a basis for the living wage.

Another instance of the second method of calculating a living wage was the finding of the Commonwealth Basic Wage Commission of 1920. This Commission was directed to report on " the actual cost of living at the present time, according to reasonable standards of comfort, including all matters comprised in the ordinary expenditure of a household, for a man with a wife and three children under 14 years of age, and the several items which make up that cost "[3]. Adopting as its standard the average standard of living being obtained by wage earners generally — i.e. from a range of wage rates which at the time averaged about £4 5s. a week—the Commission assessed the cost of that standard for the particular family unit of man, wife and three children at £5 16s. This rate was, however, considered to be well beyond the capacity of industry to pay, and the Commission's findings were not adopted as the basis for wage awards. The magnitude of the sum arrived at in this and certain other findings based on similar methods of enquiry was a natural result of the choice of a family unit larger than the actual average; and it has been estimated that when allowance is made for the smaller number of persons dependent on the average

[1] D. T. SAWKINS : *op. cit.*, p. 48.
[2] *Ibid.*, p. 22.
[3] Commonwealth of Australia : *Report of the Royal Commission on the Basic Wage* (Melbourne, 1920), p. 5.

adult male the average wage rate actually current at the time must have yielded a standard of living approximately the same as that which would have been provided for a family of five by the rate of £5 16s.[1] In one case the unit taken as a basis for a living-wage estimate was smaller than the actual average family, and as a result the living wage was assessed at a figure much below current rates of wages. This was in 1929, when the New South Wales Industrial Commission, adopting a standard approximating to that actually enjoyed by living-wage earners, assessed the cost of maintaining it for a man and wife alone (the unit prescribed on this occasion by Parliament)[2] at £3 12s. 6d. As the current living wage was £4 5s. the Commission refused to take the responsibility of declaring the new rate applicable forthwith, and Parliament intervened to prevent it from being declared at all. A new unit was prescribed, consisting of man, wife and one child[3], and this enabled the Commission to declare the basic wage at £4 2s. 6d., a rate little below the current rate.

In the third main class of living-wage findings the distinguishing feature was " the assessment of the cost of the requirements of approximately the true average family or domestic unit at the average standard being enjoyed by living-wage earners "[4]. The later finding of the New South Wales Industrial Commission, to which reference has just been made, belongs to this class, as also did a finding of the same authority in 1926 which yielded similarly a rate approximating closely to the current living wage.

One fact which emerges from this survey of living-wage findings is that the wage-fixing authorities have throughout, almost without exception, refused to declare a living wage differing in any marked degree from current ruling rates. " The one exception ", according to Mr. D. T. Sawkins[5], " was the [New South Wales] Board of Trade declaration of 1919, and it seems unlikely that any authority would wish to repeat that experiment. The risk of disturbing by large impulses the nominal purchasing power of the vast masses of the community whose living depends on wages is too formidable. The

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[1] D. T. SAWKINS : *op. cit.*, pp. 28-29.

[2] The reason for the adoption of this unit was that a Child Endowment Scheme had been established to provide for the needs of dependent children.

[3] It should be noted that this unit is no longer prescribed by the New South Wales law, for the latter was amended in 1937 to provide for the adoption in that State of the same basis of assessment as is adopted by the Commonwealth Court (cf. p. 16 above).

[4] D. T. SAWKINS : *op. cit.*, p. 50.

[5] *Ibid.*, p. 50.

economic consequences of either large inflationist or large deflationist measures are too incalculable. "

It would however be a mistake to draw from this the conclusion that the size of family unit prescribed for living-wage declarations is a matter of no importance. As Mr. Sawkins points out, " Authorities who are at present loaded, either by tradition or by statute, with, say, a man, wife, and three children really cannot risk an enquiry into the current average or general standard of living of living-wage earners; for the determination of that standard will surely produce an impracticable result if applied to the excessive unit adopted. But if approximately the true average unit be adopted, the current average standard of living-wage earners can be examined in detail, item by item, without fear of an absurd result "[1]. The importance of being able to carry out such enquiries and to base wage-fixing decisions on their results constitutes a strong reason for adopting the smaller family unit. Some form of family allowance scheme could then, it is suggested, be adopted to meet the needs of larger families. Similar conclusions, it may be noted, have been reached by other authorities, though different opinions are held as to what is to be regarded as the " true " average family unit. Thus a majority judgment of the Commonwealth Court in 1934 expressed the opinion that " the average family unit to be provided for is that of a man, wife and two dependent children "[2].

As has already been noted, the preoccupation of wage-fixing authorities with ruling rates may be regarded as an indication of the importance they have attached to economic considerations as well as needs in their endeavours to determine what constituted a reasonable living wage. The readiness of these authorities to admit the need for variations in the living wage to compensate for changes in the cost of living[3] might seem at first to be in contradiction with this attitude. In fact, however, it appears at last as likely that the variations made accorded with changes in capacity to pay no less than with the changes in cost of living, for it seems probable that price movements have generally coincided in direction with changes in economic conditions and capacity to pay. However

[1] D. T. SAWKINS : *op. cit.*, p. 51.

[2] *Commonwealth Arbitration Reports*, Vol. XXXIII (1934), p. 149. On this question of the size of the actual average family cf. also the discussion and references in Eveline M. BURNS : *Wages and the State* (London, 1926), Ch. XIV.

[3] Such adjustments (usually at quarterly intervals) have been the regular practice under awards of the Commonwealth Court since 1922, and similar adjustments, though on different bases and at different dates, have been made for a number of years under many State awards.

this may be, there is no doubt that, though special prominence was given to the criterion of needs and the basic rates of wages fixed by the Commonwealth and State tribunals were regularly adjusted to changes in the cost of living, great importance was in fact attached to considerations of capacity to pay[1]. This was clearly shown, in particular, by the policy followed during the great depression of the thirties and the subsequent recovery.

During 1930, as the result of automatic adjustments to falling costs of living, the Commonwealth basic wage was reduced by some 12 per cent. (in terms of its money value). Applications were however made by employers' organisations for reductions in real as well as in money wage rates and the Court, after hearing lengthy evidence and argument by the parties concerned and by economists, came to the conclusion that the decline which had occurred in national income and in industry's capacity to pay rendered necessary, as part of a general scheme of adjustment, a reduction of 10 per cent. in the real value of the basic wage[2].

When in 1932 and the succeeding years applications were made by the trade unions for the restoration of the " 10 per cent. cut " the Court's decisions again turned primarily on the question of the prosperity of industry in general rather than on the needs of the average family. The attitude adopted is well illustrated by the majority judgment of the Court in the 1934 case. While noting that the basic wage had been regarded as appropriate to the requirement of a unit of " about five persons ", the Court went on to say that the deciding factor was what industry in all its primary, secondary or ancillary forms could pay to the average employee, and that irrespective of what family units had been laid down for or adopted by Industrial Tribunals, the amounts actually paid had

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[1] It should be noted in this connection that the repeal in 1930 of a provision in the Commonwealth Conciliation and Arbitration Act requiring the Court in fixing wages (other than the basic wage) to " take into consideration the probable economic effect " did not have the effect of limiting the powers or changing the practice of the Court in this connection. It was clear from the previous practice of the Court and from statements of the Chief Judge that the specific direction quoted was merely unnecessary. Cf. FOENANDER : *Towards Industrial Peace in Australia*, p. 59.

[2] *Commonwealth Arbitration Reports*, Vol. XXX, p. 2. For discussions of the policy pursued by the Court see D. B. COPLAND : *Australia in the World Crisis* (Cambridge, 1934); E. R. WALKER : *Australia in the World Depression* (London, 1933) and *Unemployment Policy* (Sydney, 1936); O. de R. FOENANDER : *Towards Industrial Peace in Australia* (Melbourne, 1937); W. R. MACLAURIN : *Economic Planning in Australia* (London, 1937); and W. B. REDDAWAY : " Australian Wage Policy, 1929-1937 ", in *International Labour Review*, Vol. XXXVII, No. 3, March 1938, p. 341.

been governed by this consideration. In view of the absence of clear means of measuring the general wage-paying capacity of total industry, the actual wage upon which well-situated labourers were at the time maintaining the average family unit could justifiably, the Court considered, be taken as the criterion of what industry could probably pay to all labourers[1].

As the economic condition of the country had improved, the Court decided in favour of an increase in wages, but at the same time it adopted a new basis for the calculation of the cost of living. As a result the basic wage was fixed at a level somewhat below that which ruled before the 1931 reduction. By 1937 a further marked improvement in economic conditions had occurred and in June of that year the Court granted further increases of from 4s. to 6s. a week in the basic wage. It is of interest to note that in reaching its decision in this case the Court was influenced, not merely by the fact that prosperity had returned, but by the argument that a wage increase might serve to check an incipient boom and thus lessen the risk of subsequent depression[2].

In tracing such changes in the basic or living wage it should be noted that, although only a small proportion of Australian wage earners actually receive the bare living wage, the amount of this wage is of importance to all industries and occupations, since the whole wage structure is linked to the living wage by a system of differentials. Space precludes any detailed examination of the principles on which margins for skill are calculated[3]. It may, however, be noted that margins exist for various kinds of skill, together with allowances for disagreeable, dirty or dangerous work; and that in certain cases industry allowances or " prosperity allowances " have been granted to workers in an industry which is particularly prosperous at the time. As awards are varied to meet changes in the cost of living the practice has been to preserve

[1] *Commonwealth Arbitration Reports*, Vol. XXXIII (1934), pp. 144 *et seq.* Cf. COMMONWEALTH BUREAU OF CENSUS AND STATISTICS: *Labour Report*, 1935, p. 81.

[2] See the text of the Commonwealth Basic Wage Determination of 23 June 1937 (reproduced in *New South Wales Industrial Gazette*, July 1937, pp. 7 *et seq.*), and cf. W. R. MACLAURIN: " Compulsory Arbitration in Australia ", in *American Economic Review*, Vol. XXVIII, No. 1, March 1938, p. 81 (note); W. B. REDDAWAY: " Australian Wage Policy, 1929-1937 ", in *International Labour Review*, Vol. XXXVII, No. 3, March 1938, p. 326; and George ANDERSON: " The Basic Wage in Australia " in *The Economic Record*, Vol. XIV, No. 26, June 1938, p. 61.

[3] For a discussion of this question see G. ANDERSON: *Fixation of Wages in Australia*, pp. 279-301, Ch. XVIII, *passim*.

the nominal margins. When prices and wages have been rising this has meant that the skilled worker has not received the same percentage increase as the unskilled. The margins awarded for skill are in any case not large and the Australian system of wage regulation has frequently been criticised for being "unfairly and unreasonably niggardly in rewarding unusual capacity "[1].

The system, like that in operation in New Zealand[2], has also been criticised on the ground that it tends to widen the gap between wages in sheltered and unsheltered industries, i.e. that it favours industrial workers as against rural workers and tends in addition to force up farming costs to the detriment of the chief industry of the country. Though Australia's secondary industries are relatively more important to her than New Zealand's, nevertheless the situation is broadly similar in the two countries. In Australia, however, it is more difficult to isolate the effects of the arbitration system on industrial costs from those of the tariff. Both employers and workers are apparently agreed as to the desirability of tariff protection, the workers perhaps believing that the existing wage level can only be maintained behind a tariff wall, and the employers convinced of the inability of secondary industry to survive if exposed to the full blast of foreign competition. Predominantly agricultural States, such as Western Australia, on the other hand, have protested vigorously against what they consider an inequitable distribution of the tariff burden; and the view is fairly widely held that the high level of internal costs and prices associated with the arbitration and tariff systems has had the effect of depressing the standard of living of such groups as rural workers and small farmers. It is possible, on the other hand, that the main effect may have been not so much to lower the standard of living of small farmers and farm workers as to reduce their numbers (at the same time favouring an increase in the proportion of total population engaged in urban industries) and to reduce, or to keep lower than would otherwise have been the case, the level of rural rents and land values. The general problem of the incidence of any costs involved in the arbitration and tariff systems is, however, extremely complicated, and neither

[1] W. H. HANCOCK: *Australia* (London, 1930), p. 181. Cf. G. V. PORTUS: "Wage Fixation in Australia", in *American Economic Review*, Vol. XIX, No. 1, March 1929, p. 74; and W. Rupert MACLAURIN: "Compulsory Arbitration in Australia", in *American Economic Review*, Vol. XXVIII, No. 1, March 1938, p. 71, note 14. For a different view, see A. G. B. FISHER: "Education and Relative Wage Rates", in *International Labour Review*, Vol. XXV, No. 6, June 1932, pp. 760 *et seq.*

[2] Cf. page 173.

theoretical analysis nor available statistics can at present yield precise conclusions.

Nevertheless it may be of interest to note the general conclusions on this subject reached by two Australian economists. Writing of pastoral workers generally they conclude that " Federal arbitration has been successful in raising the standard of living of rural workers "[1]. Some support is lent to this conclusion by the movements in wage rates in New South Wales after rural workers had been excluded from the jurisdiction of the Industrial Commission in 1929. During the years immediately following, the wages of farm labourers fell further and the fall continued longer than was the case with wages in occupations which continued to be regulated[2]. The effect of regulation, it would seem, had been to maintain the wage rates of agricultural workers covered by awards at a higher level than would otherwise have been the case. As to the effects of the system on rural workers not covered by awards, Messrs. Copland and Foenander came to the conclusion that wages in non-regulated occupations " have risen in sympathy with award rates in both rural and secondary industries "[3].

In view of the extreme complexity of the subject and the little light that has been thrown on it by available statistics and published works it has not been thought advisable to attempt, in the brief space here available, any detailed discussion of the net effect of wage regulation in Australia on the general level of money or real wage rates or on average earnings. It may however be of interest to quote the following official estimates of the movements in money and real wage rates during the period 1901 to 1936.

Brief reference may also be made to two related criticisms of Australian wage regulation which were heard fairly frequently during the late twenties and which are still occasionally advanced. The first is to the effect that the system of adjusting basic rates of wages (and, indirectly, other rates as well) to variations in cost of living results in stereotyping real wages at a level not much above that reached a generation ago. As may be seen from the table opposite, the index numbers of real wage rates based on the " A " series of retail price indexes lend some support to this criticism, at least until about 1929. The index numbers based on the more comprehensive " C " series show, however, a greater rise both during

[1] D. B. COPLAND and O. de R. FOENANDER : " Agricultural Wages in Australia ", in *International Labour Review*, Vol. XXV, No. 6, June 1932, p. 785.
[2] Cf. *The Official Year-Book of New South Wales*, 1934-35, pp. 784-785.
[3] COPLAND and FOENANDER : *loc. cit.*, p. 767.

INDEX NUMBERS OF MONEY AND REAL WAGE RATES IN AUSTRALIA, 1901-1936

(Weekly rates for full employment ; base, 1911 = 1,000)[1]

Year	Money wages	Real wages, measured by[2]	
		" A " series	" C " series
1901	848	964	—
1911	1,000	1,000	(1,000)
1916	1,144	864	867
1921	1,826	1,076	1,087
1926	1,914	1,072	1,141
1927	1,946	1,102	1,171
1928	1,963	1,115	1,172
1929	1,972	1,082	1,151
1930	1,939	1,152	1,198
1931	1,752	1,185	1,210
1932	1,639	1,168	1,190
1933	1,584	1,178	1,187
1934	1,590	1,148	1,173
1935	1,609	1,133	1,166
1936	1,635	1,119	1,160

[1] SOURCE : COMMONWEALTH BUREAU OF CENSUS AND STATISTICS; *Labour Report*, 1936, No. 27, pp. 70 and 16.

[2] The " A " series of index numbers of retail prices (based on food, groceries and rent) is that which was used by the Commonwealth Arbitration Court from 1913 to May 1933 to vary the " Harvester " basic wage (declared by Mr. Justice Higgins in 1907) in accordance with changes in the cost of living. The " C " series (based on food, groceries, rent, clothing and miscellaneous items of household expenditure) was adopted by the Court in April 1934 in place of the "A" series. From May 1933 to April 1934 a combination of the " A " and " C " series was used.

this period and subsequently. The second criticism, closely related to the first, is to the effect that under this system the Australian workman has no visible interest in reducing costs of production, for " to outward seeming he has no real interest in low prices. If his efficiency helps to reduce prices, he is rewarded by a scaling down of his wages "[1]. The author from whom these words are quoted points out, however, that rigidity of wage rates does not necessarily mean rigidity of real income, and refers to the share the workers have enjoyed in Australia's increasing prosperity through additions to their " free income ". And on the side of the workers the opinion seems to have prevailed that, although the system of linking wage rates to a basic wage adjusted automatically to changes in cost of living might have its disadvantages — such as a tendency to limit the rise in wages in good times and to increase unemployment in depression — it was less dangerous than an open

[1] W. H. HANCOCK : *op. cit.*, p. 186.

acceptance of the principle of the capacity of industry to pay, which might tend to work against them all the time [1].

Two more general aspects of wage regulation in Australia, which it is not possible to discuss at length, may be briefly noted. In the first place, as may be gathered even from the brief description given in this survey, the various authorities responsible for wage regulation in Australia, and in particular the Commonwealth Arbitration Court, exercise a profound influence on the whole economic structure and industrial organisation of the country. Their authority extends, not merely to minimum rates of wages, but to conditions of employment in general, and since the great majority of wage earners and large numbers of salaried workers come under their jurisdiction, their decisions constitute a code of regulations to which almost all kinds of economic activity must conform. In the second place, the policy adopted by the various wage-fixing authorities is clearly of the greatest importance in relation to large-scale fluctuations in economic activity. Australia's dependence on external trade, though less than it was even a decade ago, is still very great, and the consequences of movements in world prices are therefore quickly felt in the form of fluctuations in the national income. The Commonwealth Court and other industrial tribunals have been obliged to take such fluctuations into account in formulating their own wage policy; but they have at the same time sought to minimise the ill-effects of falling prices and to create such conditions as would enable a high level of prosperity to be maintained within the country. It is perhaps unnecessary to emphasise either the importance or the extreme complexity of the task which they have thus undertaken.

In conclusion a brief reference may be made to the general attitude to wage regulation in Australia of those whose interests are most directly concerned. Though both employers and workers are critical of certain features of the system, there appears to be only a minority who would favour its total abolition. Employers in general evidently value compulsory arbitration as a method of securing uniformity in conditions of competition and as a means of adjusting wages and working conditions with a minimum of the loss and friction caused by industrial disputes; while the workers see in it a necessary safeguard for groups whose bargaining power is slight and a possible means of maintaining the general average of wage rates at a somewhat higher level than might otherwise be

[1] W. H. HANCOCK: *op. cit.*, pp. 185-186.

obtained. By the community as a whole it is valued for its services to the cause of industrial peace.

REFERENCE LIST

AUSTRALIAN OFFICIAL PUBLICATIONS

(a) *Legislation*

(i) *Commonwealth*

The Commonwealth Conciliation and Arbitration Act, 1904-1934, as amended[1].
The Arbitration (Public Service) Act, 1920-1934.
The Industrial Peace Acts, 1920.
The Aboriginals Ordinance, 1918-1937[2].
The Industrial Board Ordinances, 1936 and 1937.

(ii) *States*[3].

New South Wales : The Industrial Arbitration Acts, 1912-1937.
Victoria : Factories and Shops Acts, 1928-1936.
Queensland : The Industrial Conciliation and Arbitration Acts, 1932-1937.
South Australia : The Industrial Acts, 1920-1936.
Western Australia : Industrial Arbitration Act, 1912-1925.
Tasmania : The Wages Boards Act, 1920, as amended.

(b) *Other*

(i) *Commonwealth*

Commonwealth of Australia Gazette (contains texts of determinations of the Commonwealth Industrial Board).
OFFICE OF THE REGISTRAR, COMMONWEALTH COURT OF CONCILIATION AND ARBITRATION : *Commonwealth Arbitration Reports* (annual volumes).
ATTORNEY-GENERAL'S DEPARTMENT : *Commonwealth Public Service Arbitration Reports* (Annual Volumes).
COMMONWEALTH BUREAU OF CENSUS AND STATISTICS : *Labour Report* (annual).
The Commonwealth Year-Book (annual) and *Quarterly Summary of Australian Statistics.*
Report of the Royal Commission on the Basic Wage, Nov. 1920.
Supplementary Report of the Royal Commission on the Basic Wage, 1921.

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[1] For the Act as amended up to 1928, see I.L.O. *Legislative Series*, 1928, Austral. 2; for the Commonwealth Conciliation and Arbitration Act, 1930, see *Legislative Series*, 1930, Austral. 11; and for the Commonwealth Conciliation and Arbitration Act, 1934, see *Legislative Series*, 1934, Austral. 15.

[2] *Legislative Series*, 1933, Austral. 2.

[3] Most of the State laws and their amendments are reprinted in the *Legislative Series*, as under :

New South Wales : 1926, Austral. 7; 1927, Austral. 7; 1929, Austral. 5; 1930, Austral. 12; 1931, Austral. 13; 1932, Austral. 5; 1936, Austral. 2; 1937, Austral. 2.
Victoria : 1929, Austral. 13; 1934, Austral. 11.
Queensland : 1933, Austral. 1; 1934, Austral. 5; 1935, Austral. 7.
South Australia : 1926, Austral. 1; 1935, Austral. 10.
Western Australia : 1925, Austral. 12; 1930, Austral. 7.
Tasmania : 1924, Austral. 1; 1929, Austral. 1; 1934, Austral. 3; 1935, Austral. 8.

Most of the original Acts have been amended many times, and so far as is known no fully up-to-date consolidated texts are available.

(ii) *States*

New South Wales :

BUREAU OF STATISTICS AND ECONOMICS : *Official Year-Book* (annual).
DEPARTMENT OF LABOUR AND INDUSTRY : *New South Wales Industrial Gazette* (monthly).
COURT OF INDUSTRIAL ARBITRATION : *Industrial Arbitration Reports* (annual volumes).

Victoria :

OFFICE OF THE GOVERNMENT STATIST : *Victorian Year-Book* (annual).
DEPARTMENT OF LABOUR : *Report of the Chief Inspector of Factories and Shops* (annual).
Summary of Wages and Conditions fixed by Wages Boards or by Courts of Industrial Appeal (quarterly).

Queensland :

DEPARTMENT OF LABOUR : *Queensland Industrial Gazette* (quarterly). *Report of Director of Labour* (annual).
GOVERNMENT STATISTICIAN : *The Queensland Year-Book* (annual).
Report of the Economic Commission on the Queensland Basic Wage, 1924.
ROYAL COMMISSION ON CHILD ENDOWMENT OR FAMILY ALLOWANCES : *Report*, 1929.

South Australia :

DEPARTMENT OF LABOUR : *Report of Chief Inspector of Factories* (annual). *South Australian Industrial Reports.*
DEPARTMENT OF INDUSTRY, BOARD OF INDUSTRY : *Reports* (various).

Western Australia :

DEPARTMENT OF LABOUR : *Western Australian Industrial Gazette* (quarterly).
DEPARTMENT OF LABOUR : *Annual Report.*
GOVERNMENT STATISTICIAN : *Statistical Register of Western Australia* (annual).

Tasmania :

DEPARTMENT OF PUBLIC HEALTH : *Report of Chief Inspector of Factories* (annual).

OTHER PUBLICATIONS

(a) *Books*

M. ATKINSON (Ed.) : Australia : *Economic and Political Studies* (Melbourne, Macmillan, 1920). (See in particular " The Judicial Regulation of Industrial Conditions ", by W. Jethro BROWN.)

H. B. HIGGINS : *A New Province for Law and Order* (London, Constable, 1922).

T. W. MCCAWLEY : *Industrial Arbitration* (Brisbane, Government Printer, 1924).

J. L. K. GIFFORD : *Economic Statistics for Australian Arbitration Courts* (Melbourne University Press, 1928).

J. B. BRIGDEN, D. B. COPLAND, E. C. DYASON, L. F. GIBLIN and C. H. WICKENS : *The Australian Tariff*, An Economic Inquiry (Melbourne University Press and Macmillan, 1929).

George ANDERSON : *Fixation of Wages in Australia* (Melbourne, Macmillan and Melbourne University Press, 1929).

W. K. HANCOCK : *Australia* (London, Benn, 1930).

D. B. COPLAND (Ed.): *An Economic Survey of Australia.* Special number of *The Annals of the American Academy of Political and Social Science.*

Vol. CLVIII, November 1931 (Philadelphia, 1931). (See in particular three articles by George ANDERSON, pp. 148-175.)

E. Ronald WALKER : *Australia in the World Depression* (London, P. S. King, 1933).

D. T. SAWKINS : *The Living Wage in Australia* (Melbourne University Press, 1933).

N. G. Mc WILLIAM : *N.S.W. Industrial Arbitration Law, being the Industrial Arbitration Acts of 1912, 1926, 1930 and 1932, as amended together with Rules, Regulations and Forms, with Notes of Cases* (Sydney, Law Book Co. of Australasia, Ltd., 1933).

D. B. COPLAND : *Australia in the World Crisis*, 1929-1933 (Cambridge University Press, 1934).

T. C. BRENNAN : *Interpreting the Constitution* (Melbourne, Melbourne University Press and Oxford University Press, 1935).

E. Ronald WALKER : *Unemployment Policy, with Special Reference to Australia* (Sydney, Angus and Robertson, 1936).

L. F. GIBLIN : *Some Economic Effects of the Australian Tariff* (Adelaide, Hassell Press, 1936).

O. de R. FOENANDER : *Towards Industrial Peace in Australia* (Melbourne University Press, 1937).

W. R. MACLAURIN : *Economic Planning in Australia* (London, P. S. King, 1937).

(b) *Articles*

T. W. McCAWLEY : " Industrial Arbitration in Queensland " in *International Labour Review*, Vol. III, No. 3, March 1922.

George ANDERSON : " The Commonwealth Conciliation and Arbitration Act, 1928 ", in *The Economic Record*, Vol. IV, No. 7, November 1928.

O. de R. FOENANDER : " The New Conciliation and Arbitration Act in Australia ", in *International Labour Review*, Vol. XIX, No. 2, February 1929.

G. V. PORTUS : " The Development of Wage Fixation in Australia ", in *American Economic Review*, Vol. XIX, No. 1, March 1929.

George ANDERSON : " The Commonwealth Conciliation and Arbitration Act, 1930 ", in *The Economic Record*, Vol. VII, No. 12, May 1931.
" Regulation of Industrial Relations in Australia " and " Wage Rates and the Standard of Living in Australia ", in *The Annals of the American Academy of Political and Social Science*, Vol. CLVIII, November 1931.

O. de R. FOENANDER : " The New Commonwealth of Australia Conciliation and Arbitration Act ", in *International Labour Review*, Vol. XXIV, No. 6, December 1931.

D. B. COPLAND and O. de R. FOENANDER : " Agricultural Wages in Australia ", in *International Labour Review*, Vol. XXV, No. 6, June 1932.

E. J. R. HEYWARD : " The Tasmanian Wages Board System ", in *The Economic Record*, Vol. XII, No. 22, June 1936.

W. R. MACLAURIN : " Compulsory Arbitration in Australia ", in *American Economic Review*, Vol. XXVIII, No. 1, March 1938.

W. B. REDDAWAY : " Australian Wage Policy, 1929-1937 ", in *International Labour Review*, Vol. XXXVII, No. 3, March 1938.

George ANDERSON : " The Basic Wage in Australia ", in *The Economic Record*, Vol. XIV, No. 26, June 1938.

N. COWPER : " Towards Industrial Peace in Australia ", in *The Economic Record*, Vol. XIV, No. 26, June 1938 (review of the book, bearing the same title, by O. de R. Foenander).

BELGIUM

Introduction

The idea of the minimum wage dates back in Belgium to the year 1853, when Mr. de Brouckère, Mayor of Brussels, " sought to convince the employers organised in trade associations of the urgent necessity of raising wage rates ", and asked the Brussels Town Council " to support the movement which must be set on foot in private industry by laying down a minimum wage for workers employed on public works by the city "[1]. Towards the end of last century the practice of fixing minimum wages in public works carried out by the local and provincial authorities spread rapidly[2].

In private industry statutory minimum wages have been fixed only for home workers; other categories of workers are generally protected by collective agreements containing, among other provisions, minimum-wage clauses based on decisions reached by joint boards[3]. The workers do not seem very anxious to secure the legal regulation of wages, fearing, apparently, that an Act establishing minimum wages might tend to result in a levelling down of existing rates[4].

Although Belgian legislation concerning minimum wages in home

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[1] Kingdom of Belgium, Ministry of Industry and Labour, Labour Office : *Le minimum de salaire et les administrations publiques en Belgique*, Brussels, 1911, pp. 3 *et seq.*

[2] *Ibid.*

[3] Joseph Mineur : *La Réglementation conventionnelle des salaires en Belgique*, Gembloux, 1936, pp. 31-32. Cf. also page 54, footnote 1.

[4] Cf. *Le Peuple* (Brussels) of 28 August 1937 : " Un coup d'œil rétrospectif sur les augmentations de salaires appliquées depuis 1935 ", by Oscar de Swaef; *Le Peuple* (Brussels), 6 July 1937 : " Les métallurgistes discutent le nouveau programme de leur Centrale nationale " (Report by Mr. Joseph Bondas). During the debates in the Chamber of Representatives on the ratification of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the possibility of extending minimum-wage legislation not only to industries in which wages are insufficient but also to those possessing joint boards was, however, discussed. (Chamber of Representatives : *Annales Parlementaires*, 1936-1937, pp. 1412-1413.)

work is of recent date, the idea of protecting home workers arose at the end of last century. As a result of an enquiry instituted in 1898, the Statistical Section of the Labour Office published a series of monographs dealing with the different branches of industry in which home work was performed. In 1910 a home work exhibition was organised in Brussels which attracted a large number of visitors and produced a profound impression. In the same year an international congress on home work held at Brussels unanimously recommended the setting up of wage boards for home workers, and a Bill dealing with the question was submitted to the Chamber of Representatives. The Bill was not adopted on this occasion, but in 1934, after undergoing considerable amendment as a result of fresh enquiries undertaken by the authorities and of a thorough study of the problem by the Superior Labour Council and the Government, it was passed into law[1].

It may be noted finally that the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), was ratified by Belgium on 11 August 1937, on the basis of an Act of 18 June 1937[2].

The Home Work Act, 1934, and Orders, 1935

The Home Work Act, passed on 10 February 1934, provides for the regulation of the conditions of home workers as regards wages and health. A Royal Order of 15 July 1935[3] prescribed the form of wage book to be kept for home workers under section 29 of the Act. A further Royal Order of 24 August 1935 designated the officials responsible for the enforcement of the Act.

Scope

Section 1 of the Home Work Act of 10 February 1934 defines the home worker as any worker who is employed on work either in his dwelling or in any other premises or place not provided for him by his employer, provided that he has not more than four assistants in his service.

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[1] Chamber of Representatives, Session 1932-1933, No. 139, sitting of 5 May 1933 : Bill to issue regulations governing wages and hygiene in home work (*Le Moniteur belge*, 25 March 1934, p. 1488).

[2] *Moniteur belge*, 21 October 1937, pp. 6402 *et seq.*

[3] The scope of this Royal Order did not at first include the armament or the diamond industries. Later, however, experience having shown that the standard wage book could be used in these two industries instead of the special model which had originally been contemplated for them, a Royal Order of 4 April 1936 extended its provisions to them also.

The assistants of a home worker as here defined are also covered by the Act, irrespective of the place where they work.

Commenting upon this definition in the course of the debate on the Bill the then Minister of Labour wrote as follows, in aletter addressed to the competent committee of the Senate :

" What distinguishes the home worker from the independent worker is the nature of the contract by which he is bound. The home worker is bound by a contract for the hiring of his services, while the independent worker, the craftsman, and the employer are bound by an estimate or bargain. The case of an independent worker working directly for his customers is clear : he works on the basis of an estimate or bargain. Closer examination, however, is required in the case of a person working at home for the account of a manufacturer or merchant, and particularly when his work consists only in working up raw materials or half-finished articles entrusted to him by the manufacturer or merchant. Such a case may constitute the hiring of services, but it may also represent a transaction based on an estimate or bargain. How are we to distinguish between the two types of contract?

" There can be no doubt as to the answer. All writers agree that the hiring of services implies a certain measure of subordination and dependence on the part of the person to whom the work is given. The independent worker, on the other hand, who hires out his industry and not his services, faces his customers — at least in theory — on a footing of equality.

" This difference in the relative positions of the parties involves certain differences in the manner of concluding and carrying out the agreement. When services are hired, for instance, it is the employer who fixes the wages, whereas when the transaction is based upon an estimate or a bargain it is the independent worker who fixes the price. Again, the home worker generally receives his wages directly from hand to hand, and does not give a receipt, whereas the independent worker sends in a bill and is usually paid either by means of a draft or by a bank transfer. Yet a third difference is that while the home worker is generally paid weekly, fortnightly, or monthly, or else on completion of the work, the independent workers' customer is generally entitled to a period of one month in which to pay.

" These criteria are not, of course, of absolute or universal validity. They are mere presumptions which hold good only until contrary proof is advanced against them.

" In the matter under consideration the greatest prudence must be exercised. I have been informed by the Labour Inspectorate that for some time past certain employers have been requiring the home workers employed by them to send in bills for the work done. Employers must naturally be prevented from transforming their home workers into independent workers by making it appear that the worker fixes the price of his work, by having bills sent in, by paying his wages by means of letter of credit or bank transfer, or by making payment a month after it becomes due. If this were allowed, home workers would disappear as though by magic, and the Act would become a dead letter.

" Employers would do well to take note that manœuvres of this kind will not be successful . . .

" This being so, by what criterion is the worker to be recognised? I would suggest that the determining characteristic is his social situation,

or what the English call his " standing " — that is, his surroundings, his home, the social circles in which he moves, etc. He is not in fact so difficult to recognise as might appear at first sight, for when one is faced with a concrete case one has usually but little difficulty in recognising a worker. It is only the theoretical definition that is difficult to formulate . . .[1] ".

Against this interpretation the objection was raised that if adopted it would render the text too vague, lead to the inclusion under the term " worker " of all persons in a position of economic dependence, and make the Act applicable to contractors. To this, however, the Rapporteur of the Chamber of Representatives replied by drawing attention to the passage of the Minister's letter declaring that the home worker is bound by a contract for the hiring of services. The word " worker ", the Rapporteur contended, denotes clearly and exclusively a worker occupied under the terms of a contract for the hiring of services. The home worker presupposes one or more employers, failing which he is to be regarded as an independent worker[2].

Machinery and Method of Fixing Wages

The central body responsible for the study and regulation of questions relating to home workers is the National Home Work Board, which is composed of three heads of undertakings, three workers, and a Chairman with a specialised knowledge of economic and social questions.

When the National Home Work Board is called upon to decide questions of wages, it may co-opt two representatives of the employers and two representatives of the workers belonging to the home industry concerned, choosing them from lists put forward by the most representative trade associations. If the home industry concerned includes workers in more than one occupation, the co-opted workers' representatives must belong to the occupation which the Board is called upon to consider.

The employers' and workers' members are chosen from lists of candidates (two for each seat) drawn up by the most representative employers' and workers' organisations. If no candidates are proposed, the members are appointed *ex officio*. The same conditions govern the appointment of substitute members. The

[1] *Documents parlementaires* (No. 122): Sénat de Belgique, Sitting of 7 May 1931, p. 3.

[2] *Documents parlementaires* (No. 139): Chambre des Représentants, session 1932-1933, Sitting of 5 May 1933, p. 12.

Chairman is appointed by agreement between the employers' and workers' members; his appointment must be confirmed by the Crown. If the employers' and workers' members are unable to agree, the Crown appoints the Chairman *ex officio*.

The National Home Work Board has competence to deal with questions of wages and health conditions and to settle disputes between employers and workers. It may also be entrusted with enquiries into any problem connected with home work.

Section 15 of the Act of 10 February 1934 provides that the Board shall intervene[1] in questions connected with wages at the request of either the home workers or the employers concerned, or the trade associations representing them, or the competent Minister. The Board should not be regarded as an ordinary joint board, but rather as a tribunal which acts only when complaints are submitted to it.

On receiving a request to intervene, the Board undertakes an *enquiry*, for which purpose it is entrusted with substantial powers of investigation. It appoints a committee composed of an equal number of employers' and workers' members, which is entitled to convene and interrogate the home workers concerned, factory workers belonging to the same or a similar occupation, the employers of both these groups, and the representatives of the trade organisations. The committee may also carry out investigations on the spot.

On the conclusion of the enquiry, the workers or employers who applied for it, as well as the representatives of the various employers' and workers' groups concerned, are called before the Board. If these groups do not represent the majority of the home workers or the employers in the industry in question, all other workers and employers concerned must be allowed to be represented during the negotiations.

The first duty of the Board is to endeavour to *conciliate the parties*. For this purpose it may have recourse to the help of experts or undertake a supplementary enquiry. If the representatives of the majority of the workers and of the majority of their

[1] The general procedure prescribed for the Belgian economic system as a whole covers home work: collective agreements may be concluded by home workers, and joint boards may be set up in the various industries by Royal Order with the consent of the employers' and workers' associations. These boards are organs both of enquiry and of conciliation. Their decisions are not binding, but form the basis of the collective agreements concluded between the parties.

employers agree upon a solution, an agreement is signed by the two groups and if necessary approved and ratified by the Board, after which it is published. The agreement is binding upon all heads of undertakings who employ one or more home workers in the trade in question. The agreement is concluded for a maximum period of three years, but is prolonged failing denunciation by one or other of the parties.

If no agreement is reached between the representatives of the majority of the workers and the majority of the employers, *the Board itself fixes* the minimum remuneration to be paid; in such case it must give the reasons for its decision.

For the purpose of fixing minimum rates of wages, the Board takes as a basis the minimum wage paid to workers employed on the same or a similar process in a factory or workshop for an identical or similar piece of work of the same quality and finish. If no identical or similar work is performed in a factory or workshop by the same or a similar process, the Board takes the minimum-wage rates paid to other home workers as a basis.

Minimum wages are fixed by districts if necessary, and may vary according to the quality, finish and other characteristics of the work; if necessary, special rates may be fixed for apprentices.

If the parties refuse to accept the decision of the Board, they have fourteen days counting from the date upon which they are informed of it (the decision must be communicated forthwith) in which to agree upon a different solution. During this period they may be heard by the Board, which continues to lend its good offices. If, on the expiration of this period, no agreement has been reached between the majority of the workers concerned and the majority of their employers, the Board forwards the file regarding the case to the competent Minister, and the payment of the minimum wages which it has fixed may be made compulsory by Royal Order.

Ratified agreements and minimum rates confirmed by Royal Order do not apply to workers who are recognised to be unable, on account of their age or of some physical cause, to perform work of normal quality. Decisions of the Board regarding such incapacity must be taken, by a two-thirds majority, on the recommendation of the labour inspector and industrial medical inspector; the Board then fixes special minimum rates for these workers.

Before the expiration of the prescribed period of validity, the Board may cancel its ratification of an agreement, or the Crown may withdraw its confirmation of the minimum wage fixed, if experience shows that the minimum in question makes it impossible for the

employers or any group of the employers to carry on their business under reasonably favourable conditions. In no other case, however, may such a measure be taken before the expiration of the agreement, save at the request, or with the consent, of the representatives of the majority of the workers and employers concerned.

Enforcement

The text of the ratified agreement or the Order confirming the rate fixed by the Board must be posted up in a conspicuous position on the premises where the workers hand in work done and receive their remuneration. Employers must supply every home worker with a wage book, in which the agreed rates, the wages actually paid, and the nature and quantity of the work performed by the worker are entered. They must also keep a special register of the names and addresses of their home workers, and record therein the sums paid to them in wages and the dates upon which the payments are made.

Without prejudice to the duties of the judicial police, officials appointed by the Government supervise the observance of the minimum rates fixed. For this purpose they are entitled to enter the premises where home workers hand in the work done and receive their pay, and to demand whatever information they need from any person concerned.

In cases of failure to observe the conditions fixed, these officials draw up reports, which are accepted as evidence in default of proof to the contrary. The provisions fixing wage rates, as well as those concerning the actual payment of wages, are public law, and penalties are provided for their infringement. Employers paying wages below the rates fixed must pay fines, without prejudice to compensation for damages. Penalties may also be imposed upon anyone who fails to appear in response to a summons from the Board or its committees, or to give the information demanded, or to submit to the supervisory measures imposed, etc.

Application

Three Royal Orders have been issued under the Act of 10 February 1934, approving the ratification of collective wage agreements concluded between employers' and workers' organisations in the following home industries : glove making in Brussels (Royal Order of 23 July 1936); the gun-making industry in Liége (Royal Order

of 23 July 1937); the diamond industry (Royal Order of 4 November 1937).

The application of the first two of these Orders met with no difficulty[1]. The Order concerning the diamond industry, however, provoked violent opposition on the part of a group whose members refused to apply the rates stipulated. A report was drawn up against these offenders, and some of them were proceeded against in the courts. At the request of the public prosecutor, the *Moniteur Belge* of 19 May 1938 published a supplement quoting the wage rates in question, which it had hitherto not been considered necessary to publish on account of their technical and complex character. All wages in this industry were based on piece rates.

It should be noted that the Board has never yet been called upon, under section 20 of the Act, to impose minimum rates. It has always succeeded in bringing about a unanimous or majority agreement between the parties, to which it has simply granted its ratification.

In the absence of statistical data regarding the number of workers for whom minimum wages have been fixed, it may be of interest to mention here the number of workers employed in certain home industries in 1928. According to a report[2] drawn up on the basis of an official enquiry carried out in June, July, August and September of that year, the number of home workers was then as follows : gunsmiths, 1,200; lace workers, about 1,700; chair makers and bottomers, 300; fur pullers and fur cutters, 2,000; furriers, 100. The report gives no figures regarding certain particularly large groups of home workers, such as glove makers and makers of clothing and underwear. It should also be noted that in certain industries, in particular in the Liége gun-making industry and even more so in the Antwerp diamond industry, some of the workers change their occupation several times in a year, being sometimes independent workers and sometimes home workers.

[1] The wage rates in the Brussels glove industry, not having been denounced by 1 March 1937, were prolonged for one year in conformity with section 27 of the Act of 10 February 1934. A new collective agreement was concluded on 13 April 1938 and ratified by the National Home Work Board on 2 June 1938; the ratification, which expires on 13 April 1939, was approved by a Royal Order of 1 July 1938.

[2] MINISTRY OF INDUSTRY, LABOUR AND SOCIAL WELFARE, *Compte rendu des travaux du Conseil Supérieur du Travail*, 13th Session, 1924-1929 (Brussels, 1931) : " Avant-projet de la loi concernant le travail à domicile ", pp. 195-356.

REFERENCE LIST

Belgian Official Publications

Act of 10 February 1934 to issue regulations governing wages and hygiene in home work (*Moniteur Belge*, 25 March 1934).

Act of 18 June 1937 approving the Convention concerning the creation of minimum wage-fixing machinery, adopted by the International Labour Conference at its Eleventh Session, held at Geneva from 30 May to 16 June 1928 (*Moniteur Belge*, 21 October 1937).

Royal Order of 15 July 1935 issued under section 29 of the Act of 10 February 1934 regulating wages and hygiene in home work : annulment of certain provisions of the Royal Order of 11 September 1933 concerning the supervision of unemployment among home workers; amendment of part of the text of this Order (*Moniteur Belge*, 28 July 1935).

Royal Order of 4 April 1936 amending the Royal Order of 15 July 1935 laying down a model for the wage book to be given to home workers by their employers under section 29 of the Act of 10 February 1934 regulating home work (*Moniteur Belge*, 10 April 1935).

Royal Orders approving the ratification of wage agreements (*Moniteur Belge*, 25 July 1936 and 13 July 1938 (glove making), 24 July 1937 (gun-making), 5 November 1937 (the diamond industry).

Ministry of Industry, Labour and Social Welfare : *Compte rendu des travaux du Conseil Supérieur du Travail*, 13th Session 1924-1929 (Brussels, 1931) : " Avant-projet de la loi concernant le travail à domicile ", pp. 195-365.

Legislative proposals and Bills under examination : *La réglementation de l'industrie à domicile*; text of the explanatory memorandum (*Revue du Travail*, 31 May 1930, pp. 823-836).

Kingdom of Belgium, Ministry of Industry and Labour, Labour Office : *Le minimum de salaire et les administrations publiques en Belgique*, Brussels, 1911.

Other Publications

Alf. Lombard : *Pour le minimum de salaire* (National Federation of Belgian Miners, Ghent, 1913).

Third Congress of Christian Trade Unions, 12 and 13 July 1914, at Ghent : *Législation sur le travail à domicile*; summary of the report of Miss V. Cappe and Miss M. Baers (Ghent (publishers : *Het Volk*)).

G. Duchêne : *Les progrès de la législation sur le minimum de salaire*, Paris 1918.

Projet de loi portant réglementation sur le travail à domicile au point de vue des salaires et de l'hygiène (*Bulletin* of the Belgian Central Industrial Council, 21 May 1930).

Jean Delsaux : " La coutellerie belge " in *L'expansion belge*, July 1932.

Armand Julin : " La production décentralisée en Belgique (1893-1931) " (monographs on the principal branches of home work), in *L'actualité Economique* (Montreal), April 1936.

Loi du 10 février 1934 portant réglementation du travail à domicile au point de vue des salaires et de l'hygiène (text with commentary) (*Bulletin* of the Belgian Central Industrial Committee, 4 April 1934).

Henri Velge : *Le mouvement social en 1934* (*Bulletin* of the Institute of Economic Sciences, February 1935).

CZECHO-SLOVAKIA

Introduction

Trade union organisation and collective bargaining have reached a comparatively high level of development in Czecho-Slovakia[1] and as a rule minimum wage-fixing machinery is based on legislation and action by public authorities only in cases where such organisation and bargaining do not exist to any great extent, that is, in home work.

Nevertheless several cases of a " marginal " character may be mentioned. The minimum-wage schedules fixed by collective bargaining have provided a basis for some legislative measures; for instance, during the business depression recourse was had to the compulsory extension of collective agreements. Further, in the textile industry, at the joint request of the employers' and workers' organisations, a system was introduced, and subsequently applied in many districts, for making collective agreements binding in certain circumstances on all undertakings in a given trade and district and even in neighbouring districts, that is, inclusive of undertakings not parties to the agreement. Provision was made later for the possible extension of a similar system to all industries. Lastly, the building industry, collective agreements may be supplemented or replaced by the awards of arbitration boards.

All these measures remain in force, of course, within the frontiers fixed in November 1938.

Since the legislation applicable to home work is the most important, a brief account of its development may prove of interest.

In the former Austrian Empire conditions of work for home

[1] On 31 December 1936 there were 191 trade union organisations with an aggregate membership of 1,241,100. At the same date there were 2,521 collective agreements in force (not including those applicable to salaried employees) covering 875,061 workers (*Statistická Ročenka* (National Statistical Department), Prague, 1938, pp. 242 and 223).

workers had been under continuous consideration since as far back as 1898. Enquiries had been carried out and Government Bills amended in 1905, 1907, 1911, 1912, 1913, but without any result.

The final Bill, published on 26 September 1918, was considered in the Vienna Parliament by the Committee on Social Policy under the chairmanship of Mr. L. Winter, who subsequently became Minister of Social Welfare in Czecho-Slovakia, a lively part being taken in the proceedings by the Czech deputies and the interested parties in the Czech areas. Since, moreover, the Bill had been drafted largely in the light of opinions expressed by the chambers of commerce and reports of the labour inspectors in those territories, it was calculated to meet the needs of the home work industries that had developed there. Further, when a census of home workers in the former Austrian Empire was taken in 1902, 276,204 out of 463,536 were recorded in Bohemia, Moravia and Silesia. It was therefore natural enough that the Czecho-Slovak Act should be based on the Austrian Bill and should bear a strong likeness to the Austrian Act of 19 December 1918.

But it does differ considerably, not only in detail but also in fundamentals, from its models. For instance, the Czecho-Slovak Act *requires* the central boards to fix minimum wage rates and stresses the fact that the awards of the regional boards are binding.

The Home Workers' Minimum Wage Act has only been modified in one respect since it was passed : section 24 concerning regional arbitration boards was partially amended by section 44 of Act No. 131, dated 4 July 1931, concerning labour courts, the power of settling individual disputes being transferred to such courts.

Although the competent national authority recommended the ratification of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), Czecho-Slovakia has not yet ratified it.

Legislation at present in Force

The minimum-wage legislation consists of Act No. 29/1920, of 12 December 1919, to regulate conditions of labour and wages in home work, and further of the regulations enacted for a limited period in regard to collective bargaining : Legislative Decree No.118, of 15 June 1934, recently amended and extended till 31 December 1938[1] by Act No. 258 of 21 December 1937 concerning

[1] The existing collective agreements were further extended to 31 March 1939 by Legislative Decree No. 350 of 17 December 1938.

the compulsory extension of collective agreements (unless a new agreement is concluded); Legislative Decree No. 102 of 29 April 1935 to regulate the enforcement of collective agreements in the textile industry (to remain in force until 31 December 1940 in virtue of Decree No. 140 of 24 June 1937); Legislative Decree No. 141 of 26 June 1937 to permit the compulsory extension of collective agreements in general (to remain in force until 31 December 1938); and lastly Act No. 35 of 21 January 1923 (Chapter II) respecting arbitration courts in the building industry, the period of enforcement having recently been extended to 31 December 1940, subject to certain amendments, by Act No. 259 of 13 December 1937.

Home Work Act

Objects

The objects of the Act were set out in an accompanying memorandum, according to which home workers, being scattered, could not easily be organised in a trade union strong enough to secure conditions of work and wages similar to those enjoyed by other classes of workers.

Although in trades where the home workers were skilled and wholly engaged in work that called for considerable experience and intelligence wages were not as a rule appreciably lower than those paid to similar workers in factories, the same was not true of home working trades that did not call for any special vocational qualifications. The latter trades were carried on by a great many people, whose home work was often not their only source of income, but a subsidiary occupation, and who often accepted work at low rates under conditions which injured the interest of real home workers. It was mainly in these trades that sweating was found.

Furthermore, the large number of middlemen in such trades helped to depress the workers' earnings to a level which was out of all proportion to the value of the commodities produced. Competitive cutting of sale prices often took place at the expense of the home workers' wages, which were low enough as it was.

The memorandum accompanying the Act stated that such price-cutting was unsound not only from a social but also from an economic point of view, since it injured, not only the home workers themselves, but also conscientious contractors and whole branches of the home-working trades, which were reduced to

inactivity in districts where wages could not be brought below a certain level.

Furthermore, continous wage-cutting led to continuous variations in the sale price, the consequence often being that the quality of the product fell off and the market was restricted. Thus the regulation of conditions of work and the fixing of minimum wages were likely to benefit both the workers and many of the contractors in home-working trades, where they would put a stop to unfair competition.

According to the memorandum accompanying the Act the fixing of minimum wage rates would provide for the protection of health. The memorandum recalled the provisions enacted in Germany with respect to health in the workshops of home workers on the grounds that home workers were not only themselves very liable to contract infectious diseases, but that the articles they produced spread tubercular and other microbes among consumers. There was no point, the memorandum continued, in requiring home workers to comply with provisions as to health unless an increase in their earnings made this possible.

In order to eliminate middlemen, an attempt had been made to organise producers' co-operative societies among home workers; such organisation, however, called for economic and cultural conditions that were only found among workers with a higher standard of living.

Furthermore, many skilled home workers, and more especially those possessing certificates of competency, considered themselves as contractors, an individual attitude which made them unwilling to accept employment in a factory or join a co-operative society and inclined t6em to work " independently ".

Another reason why the memorandum relating to the Act considered action by the public authorities essential was that experience had shown that the fixing of wage rates by collective bargaining did not afford home workers sufficient protection. The contractors did not always respect the collective wage schedules, and individual workers themselves offered, when they were short of work, to accept lower rates.

Apart from the arguments used in the memorandum, others might be mentioned[1]. It was expected that persons disabled during

[1] See in this respect Dr. E. Štern : *Úprava pracovních poměrů domáckých dělniků* (The Regulation of Conditions of Work for Home Workers), publication No. 4 of the Social Institute, Prague, 1923, pp. 4 and 5.

the war and war widows would add to the numbers of the home workers. Furthermore, the comparatively favourable position of home workers during the war, when they were producing military supplies (linen, etc.) and during the first few months after the war, when they were producing luxury articles for export at reduced prices in terms of foreign currency, became much more difficult afterwards.

The memorandum justified the fixing of minimum-wage rates for home workers by central boards on the ground that conditions of work and wages for such workers must be regulated as uniformly as possible. If different rates were fixed by different regional boards, home work industries might move to the localities in which the rates were lowest, since, even if home workers themselves were tied to their places of residence, the same was not true of employers, who in the case of home work were not tied to any given locality by investments in real estate. On the other hand, allowance must be made for local conditions, since home work was to be found everywhere (from large town to mountain cottage), and for differences in the quality of the product. Accordingly, the chairmen of regional boards are invited to attend in an advisory capacity the meetings of the central boards, whose decisions are based on proposals made by the regional boards.

Scope

The object of the Act is to regulate conditions of work and wages in home work between employers and workers, that is to say, between contractors, intermediaries, middlemen, workshop assistants and home workers (section I).

For the purposes of the Act, " home worker " means a person who, without being the owner of an industrial undertaking within the meaning of the Industrial Code, is employed regularly in his own home in the manufacture or preparation of goods outside the business premises of his employer.

" Middleman " — warehouse owner, sub-contractor, job-master — means the occupier of an industrial undertaking in a branch of industry where goods are made by home work, provided such occupier is engaged in the manufacture or preparation of the goods for stock on account of a contractor, and irrespective of whether he himself contributes the materials to be used, either wholly or in part, and whether he incidentally works for customers as well.

" Workshop assistant " means an industrial worker employed in the undertaking of a middleman or contractor.

" Contractor " (manufacturer, dealer) means the person for whom goods are manufactured, by middlemen or home workers, either directly or through an intermediary.

" Intermediary " (factor) means a person employed by a contractor in dealings with home workers or middlemen.

Machinery and Method of Fixing Wages

The body responsible for fixing minimum wages for home workers is the central board appointed by the Minister of Social Welfare for each branch of industry in which home work is carried on. Section 9 of the Act provided that central boards should immediately be appointed for the textile industry and the manufacture of clothing, underclothing, footwear, and glassware, and mother-of-pearl ware, and that boards should also be set up as required for other trades.

The central board consists of not less than nine members and nine substitute members nominated by the Minister for Social Welfare after the industrial organisations concerned have been invited to submit proposals. One-third of the members are chosen from among the representatives of the contractors in the branch of industry concerned, one-third from among the representatives of the home workers in the same branch and one-third from among persons who possess the necessary knowledge and ability to decide questions as to conditions of giving out work, wages and employment in the branch of industry concerned, but do not belong to either of the groups mentioned above. The chairman of the board is appointed by the Minister of Social Welfare from among the members of the third group.

The memorandum accompanying the Act specified that these impartial experts were to be responsible for conciliation and, if necessary, arbitration between the two parties. It mentioned the following as being suitable for appointment in the third group : local medical practitioners, professional judges, and administrative officials in the districts where home work is common on a large scale. It added that the representatives of the interested parties must be *nominated too*, since on the one hand home workers were not sufficiently organised and on the other the contractors might obstruct enforcement by not appointing representatives[1]. The representa-

[1] In this connection the memorandum cited Australian experience.

tives of the contractors and those of the home workers are nominated on the proposal of their respective trade organisations.

Members of the board are appointed for four years. The decisions of the board are valid when all members or their substitutes are present. Resolutions may be passed by a majority; when the voting is equal, the chairman, who otherwise does not vote, has a casting vote.

Section 13 of the Act is designed to prevent *obstruction* by any of the interested parties. If the representatives of a group or their substitutes fail to attend without having presented an excuse which the chairman accepts as sufficient, the proceedings are to be adjourned and the chairman must call a further meeting, giving notice that at that meeting the independent members and the chairman will decide the matter in dispute, irrespective of the presence or absence of either party. In such cases the representatives of the group which does attend must abstain from voting.

Under section 14 the first duty of the central board is to set legally binding minimum wage rates for home workers in the branch of industry concerned and minimum prices for goods delivered by middlemen and home workers to contractors or intermediaries. In fixing the rates, allowance is to be made for differences in local conditions and for competition between different areas in the branch considered.

Furthermore, the central board may give advice or submit proposals to the Ministry of Social Welfare in all matters connected with conditions of work and wages in the trade for which it is responsible. It may carry out the necessary enquiries and consult experts. If regional boards are appointed in any given trade, their proposals are to be used as a basis for discussion by the central board, which must invite the chairmen of the regional boards to attend its meetings in an advisory capacity[1].

Since the board's decisions are binding and penalties must by law be inflicted for non-observance, sections 16 and 17 are designed to ensure that the decision shall not conflict with legislation, or be taken as the result of a chance majority and thus injure a given home-working trade or locality. The chairman of the central board must submit all resolutions or regulations for ratification to the Ministry of Social Welfare, which has to see that the decision is legal. One-third of the members of the central board or the chairman of one of the regional boards concerned may appeal against

[1] See p. 67.

decisions of the central board, through its chairman, to the Ministry of Social Welfare. Even in such circumstances, however, the central board has a wide measure of autonomy as a technical body. The Minister cannot refuse to ratify the decision unless it is illegal; otherwise, if he thinks that the objections are valid, he can only refer the matter back to the central board for further consideration. If the central board upholds its first decision, this can be enforced without further ratification.

Such resolutions and those ratified by the Ministry are to be published by the central board and to come into force one month after publication in the Official Gazette, unless the resolution itself provides that it will come into force at some later date.

The minimum-wage schedules so promulgated are binding on all contractors, intermediaries and middlemen, who may not impose less favourable conditions on their employees. A natural consequence of the binding force of the schedules is that agreements between the parties and individual contracts between an employer and his employee cease to be binding whenever they are less favourable to the latter than the schedule. The same applies in the case of collective agreements concluded between a single employer and his employees. On the other hand minimum-wage schedules do not cancel those fixed by collective agreement between groups of employers and employed persons. The provisions of such collective agreements in regard to the payments and services required of either party are to be considered as part of any contract concluded between members of the contracting associations. Such collective agreements are therefore binding on the parties even when they conflict with the provisions of a wage schedule in force. Either party to a collective agreement may, however, give six weeks' notice to terminate it if some wage schedule is promulgated other than that laid down in the agreement, irrespective of the period of notice for which the agreement provides.

The memorandum accompanying the Act stated that collective agreements concluded between associations of employers and wage earners were in fact to be treated as a voluntary regulation of home work, and that the wage schedules so fixed would often be adopted as minimum schedules by the central boards. A home workers' organisation would not conclude a new collective agreement less favourable than the minimum wage schedule otherwise than in a case of extreme necessity, in order to maintain employment or home work in a given locality : the Act should not prevent such action.

The Minister of Social Welfare may appoint a *regional board* for any branch of home industry for which a central board has already been appointed, and determine the trades and localities to be included within the scope of such a regional board. The composition of the regional boards is the same as that of the central boards, except that the nomination of members, substitutes and chairmen is left to the regional authority. The chairman of the central board concerned and any members of that board appointed by him may at all times attend the meetings of regional boards in an advisory capacity.

The duties of the regional boards are to make proposals to and advise the central board with respect to the minimum-wage schedules and other matters. The regional board smay also carry out the necessary enquiries. The chairman of a regional board must communicate forthwith all resolutions adopted by his board and any minority proposals to the central board.

Furthermore, the regional boards are responsible for conciliation and arbitration in the event of wage disputes between groups of employers and workers or between one employer and all or several of his employees [1]. If the chairman of a regional board fails to settle a dispute by conciliation, he must call a meeting of the board to hear the oral evidence of the parties or their representatives, if necessary calling witnesses and experts as well to be examined on oath and even compelling such persons to attend under penalties. The board must consider the dispute fully and give a decision. If, within a fortnight of the decision's being communicated in writing, neither party lodges any objection with the central board concerned, the decision is legally binding on both.

Enforcement

The first provision made in the Act as regards enforcement is that conditions of work and wages shall be published.

Contractors or intermediaries who give out work direct to home workers must notify them of :

The manner in which the wages are calculated, the wage rates, and the price of the goods ordered;

The materials and other requisites that the home worker or

[1] Disputes between a worker and his employer are referred to the labour court in accordance with section 44 of Act. No. 131, dated 4 July 1931, respecting labour courts.

middleman has to supply and the deduction to be made for the materials and other requisites given out;

The cases in which deductions may be made from wages and the permissible amount of such deductions.

These conditions of work and delivery must be submitted to the industrial authority, which is responsible for seeing that the conditions comply with the regulations in force or with collective agreements; the authority attests the statement of conditions and keeps a copy. An attested copy must be *posted up* permanently and conspicuously on all premises where work is given out, goods ordered are delivered, or wages are paid.

Every contractor, middleman or intermediary must keep a list of the workers or intermediaries employed directly by him.

Any person who gives out work directly to middlemen or home workers must at his own cost provide each of them with a particulars book, in which he enters : the terms agreed upon as to the reckoning and amount of wages; the wages paid; and the nature and amount of deductions. The particulars book is to be kept by the worker and submitted on request to the industrial authority, the labour inspector or the sickness insurance fund concerned. Forms for the registers, particulars books, and the posting up of conditions were specified in an Administrative Decree, No. 628, of 26 November 1920.

In section 33, the Act defines the employer's responsibility. If he commits a breach of the regulations, a collective agreement or a binding settlement or arbitration award made or given by a regional board, the workers are entitled to claim compensation for any injury suffered by them in consequence. In such cases the contractor is solely responsible; in other words, he does not share his responsibility with the intermediaries he employs.

Provision is made in the Act for penalties. Breaches of the regulations concerning the posting up of conditions of wages and the issue of particulars books are punishable by a fine not exceeding 1,000 K. or by imprisonment for not more than one month. Breaches of the regulations concerning home work and collective agreements are punishable by fines of not less than 50 and not more than 10,000 K. or by imprisonment for not more than three months. The authorities may further decide that contractors, middlemen or intermediaries who have been sentenced more than once shall be prohibited from working in such capacities. Failure to comply with such an injunction is punishable by imprisonment for not more than six months.

Application

In compliance with section 9 of the Home Work Act of 12 December 1919, five central boards were set up in 1921 under Orders issued by the Ministry of Social Welfare [1] for the following branches of home industry : textiles, clothing and underclothing, glass ware, mother-of-pearl ware, and footwear. In 1937 a central board was instituted for home workers engaged in making musical instruments [2].

Further Orders were issued by the Ministry of Social Welfare in 1922, 1923, 1925, 1926, 1928 and 1934, setting up 39 regional boards for the trades mentioned [3].

In all the trades mentioned above, minimum-wage schedules have been duly prescribed and amended by the central boards, being published in the Official Gazette in the form of Orders issued by the Ministry of Social Welfare.

The central boards have not published any statements as to the methods by which they arrived at their minimum-wage schedules or the considerations on which these were based. When, however, a collective agreement is concluded, the board usually embodies the wage rates so fixed in a minimum-wage schedule, the agreement thus being made binding even on non-parties. Further, the central boards try to establish uniform wage schedules for the same kind of work so as to prevent unfair competition between different districts.

In practice some flexible interpretations have been given to the provisions of the Act. For instance, the wage schedules prescribed by boards are usually enforced, not one month after promulgation, but as soon as the board has given its decision, unless an objection is raised. Further, although regional boards settle disputes by conciliation often enough and have shown that they can do this satisfactorily, they very seldom arbitrate. The quasi-legal procedure imposed on them by public administrative regulations No. 628, dated 26 November 1920, concerning the enforcement of the Home Work Act, which provide that the standing orders for judicial proceedings in civil suits must be followed, has proved too complicated for the regional boards, and in practice disputes are more often dealt with individually by the labour courts.

[1] Nos. 137, 210, 283, 375 and 421 of the *Collection of Laws and Decrees*, 1921.
[2] Order of the Ministry of Social Welfare, No. 35, dated 25 February 1937, *Collection of Laws and Decrees*.
[3] Orders published in the *Úřední list Republiky Československé* (Official Gazette).

There are no official figures for the number of workers covered by minimum-wage regulations. Minimum wages have been prescribed for every branch of home work of any importance in the country. The only figure that can be given is the number of home workers' *workshops*, as published in the last population census of 1 December 1930, that number being 50,456. The number of *home workers* is, of course, much greater. During the business depression the number of home workers increased and was estimated at 200,000 by the end of 1937. It has no doubt been substantially reduced as a result of the territorial changes made in October and November 1938, the proportionate decrease varying according to the geographical distribution of the various home working trades; for instance, while the number of home workers in the glass and textile trades has been considerably reduced by the changes, the same does not apply to other industries, such as clothing, underwear and footwear.

Information concerning the application of minimum-wage rates is mainly to be found in the reports of labour inspectors.

When they were first set up, the central boards began by collecting information and giving advice, until the regional boards had had time to develop their work of conciliation and arbitration and to acquire the necessary experience as regards the enforcement of local decisions [1].

From 1924 onwards the central boards prescribed minimum-wage schedules, which were enforced in various branches of home work [2]. During the period of prosperity between 1924 and 1929 it became easier to apply the Act, and the reports of the labour inspectors showed that satisfactory progress was being made in this respect. The central and regional boards and the home workers' trade unions set up in certain districts helped to supervise application.

The labour inspectors' report for 1926 showed that the provisions of the Act were being applied more and more satisfactorily, particularly in trades where employment for home workers was fairly stable. The report for 1929 pointed out that while in some districts no comments had been made on the application of the Act, in others the inspectors had had to prosecute for attempts at evasion. The report for 1936 [3] observes that the Home Work Act was on the whole

[1] Cf. publication No. 4 of the Social Institute : Dr. E. Štern : *Úprava Pracovních Poměrů Domáckých Dělníků*, p. 11.

[2] Already before 1924 minimum wages had been fixed for clothing supplied to the military administration.

[3] The last available report : *Zpráva o Úřední činnosti Živnostenských Inspektorů v roce 1936*, Ministry of Social Welfare, Prague, 1938.

satisfactorily applied. The breaches reported were mainly committed by employers who had recently entered a trade. The inspectors took action in cases where the wage schedules were not respected and in some cases where, in spite of the legal prohibition, part of the wages were paid in the form of goods.

The last two reports of the labour inspectors, for 1935 and 1936, state that in some branches of home work, for instance, fine underclothing and bespoke tailoring, wages have been quite adequate, but that on the whole the level of home workers' wages is very low as compared with the general level of industrial workers' wages.

Wages being particularly low for home workers engaged in making musical instruments, a public enquiry was organised, as a result of which a request was made for the institution of a central board for such workers; the board was appointed in February 1937.

The reports show that wages have improved as a result of the adoption of minimum-wage schedules and of the conclusion of collective agreements, the improvement being sometimes substantial. For instance, according to the last report of the labour inspectors, the conclusion of a collective agreement in the footwear home working trades led to an increase of 8 to 46 per cent. in wages, while the conclusion of a similar agreement in the artificial flower home working trade led to an increase of 12 to 75 per cent.

The labour inspectors' reports also refer to the correlation between the level of home workers' wages and the volume of employment for such workers : where there was a shortage of home workers in seasonal trades such as clothing, higher wages were paid in some districts than were prescribed in the schedules; during the depression, on the other hand, home workers who were short of work themselves offered to accept lower wages. Since in practice the labour inspectors can hardly do anything to stop this, the home workers' unions are trying to prevent such undercutting.

The reports add that the development and rationalisation of manufacturing have led to a recession in several branches where home work, which was once the main occupation, is now becoming occasional or intermittent. During the economic depression, however, the number of home workers increased. The report for 1936 establishes an interesting connection between home work and the enforcement of the Act respecting the extension of collective agreements in the textile industry; when the volume of employment in textile factories increased and textile collective agreements were made binding in certain districts, the number of weavers employed as home workers fell, while their wages rose.

Extension of Collective Agreements

Textile Industry

Under Legislative Decree No. 102 of 29 April 1935, subsequently maintained in force until 31 December 1940 by Legislative Decrees No. 169 of 19 June 1936 and No. 140 of 24 June 1937, respecting the application of collective agreements in the textile industry, such agreements may be made binding throughout the trade concerned and their scope may be extended as to territory.

The chief reason for the measure was that in this industry, which was hard hit by the depression, price-cutting took place at the expense of wages to such an extent that both the employers' and the workers' organisations jointly requested the public authorities to take action.

In brief, the main provisions of the Legislative Decree are as follows :

(a) *Extension of Scope as to Persons*

In any given area, a collective agreement may be made binding on all textile undertakings in a given trade when the agreement applies to at least 70 per cent. of the workers engaged in the undertakings included in the scope of the agreement.

An application to this effect must be made jointly by the employers' and workers' organisations which have concluded the agreement. The interested parties must be heard and objections may be raised.

If it is established that the agreement really covers 70 per cent. of the workers concerned, the Ministry of Social Welfare must, in agreement with the Ministry of Commerce, make the collective agreement binding throughout the trade within six weeks.

When this is done, the provisions of the agreement apply to all employers in the area and trade concerned and to all wage earners employed by them, whether members of the organisations which are parties to the agreement or not.

An individual contract of employment may not depart from the rules laid down in the collective agreement unless the agreement so provides.

(b) *Extension of Scope as to Area*

A collective agreement which fulfils the conditions mentioned above may further be extended to cover undertakings in the same textile trade but in a neighbouring territorial jurisdiction. Subject

to certain reservations the agreement may even be extended to cover undertakings in a more distant area provided that area is not too far from the one in which the agreement originally applied. In any event, the number of workers employed in the area for which the agreement was concluded must at least be equal to the number in the area to which it is to be extended.

As in the case of extension to cover third parties, application must be made jointly by the employers' and workers' representatives, the interested parties must be heard, and the decision be taken by the Ministry of Social Welfare in agreement with the Ministry of Commerce.

In virtue of the Legislative Decree, the Ministry of Social Welfare issued a series of Orders, promulgated in the Collection of Laws and Decrees, making collective agreements binding in a number of trades and in various districts and extending their scope as to area.

In practice the Legislative Decree has proved satisfactory and both employers and workers who had jointly applied for it are pleased with the results, unfair price-cutting at the expense of wages having been stopped.

General Decree concerning the Extension of the Scope of Collective Agreements as to Persons

The scope of Decree No. 141, dated 26 June 1937, respecting the binding nature of collective agreements, is more general : it applies to *all* industries and provides that on application from employers' and workers' organisations which are parties to a collective agreement, the Ministry of Social Welfare, in agreement with the competent Ministry, may make the agreement binding on all undertakings in a given district or trade, including undertakings in which the occupier or workers or both are not members of the organisations parties to the agreement. The Ministry may take the same action in regard to settlements or arbitration awards assimilated to collective agreements. The Decree is to remain in force until 31 December 1938, but section 5, providing that an individual contract of employment may not be less favourable to the wage earner than the provisions of the collective agreement, is to apply permanently.

At the time of writing (November 1938) there had been no extension of the scope of collective agreements outside the textile industry[1].

[1] Since that time, one such extension was made in December covering ten workers in building and allied trades in Prague.

3. *Compulsory Extension of Collective Agreements in Time*

A Legislative Decree, No. 118 of 15 June 1934, which came into force on 27 June 1934, provided that no collective agreement then in force could expire or be terminated before 30 April 1935. In the case of collective agreements that expired or were terminated between 1 January 1933 and 27 June 1934, the wage rates in force on 27 June 1934 were maintained in force until 30 April 1935, except where a new agreement was concluded. Similar extensions were prescribed on several occasions. The last measure of this kind was Act No. 258 of 21 December 1937, which not only maintained existing collective agreements in force until 31 December 1938[1], but also provided that they might be supplemented or amended by agreement between the parties concerned. The regulations also apply to the decisions of arbitration courts and other conciliation and arbitration bodies, for instance, the arbitration courts set up in the building industry.

The compulsory extension of collective agreements was one of the factors which made for stability in wages during the depression. It prevented them not only from falling too low, but also from rising too sharply when business recovered. In 1937 there was a general tendency for wages to rise as a result either of new collective agreements freely concluded or of strikes.

Compulsory Arbitration in the Building Industry

Under Chapter II of Act No. 35, dated 25 January 1923, respecting the promotion of the building industry, arbitration courts were set up to regulate conditions of employment in building and in undertakings for the production or transport of building materials.

The provisions of this chapter were reproduced, subject to slight amendments, in later Building Acts, more especially No. 65 of 26 March 1936, Chapter VII of which was maintained in force until 31 December 1940 by Act No. 259 of 13 December 1937.

The arbitration courts are responsible for interpreting collective agreements, prescribing conditions of employment and wages where such conditions have not been fixed by collective agreement, and settling labour disputes between one or more employers or one or more employers' associations and one or more trade unions.

The president of an arbitration court must, on instructions from

[1] See page 60, footnote 1.

the Ministry of Social Welfare, or at the request of an employers' association or trade union, immediately call a sitting of the court to be held within a fortnight.

If the workers belonging to the trade union which is a party to the dispute are on strike or locked out at the time the request is received, the court cannot deal with the dispute until both parties have agreed to apply in writing for an award.

The court may compel the parties to attend under penalty of a fine not exceeding 2,000 K. Further, the court may appoint an agent to act for either party at that party's expense. The summons to attend the court must draw the attention of the parties to the fact that the court will decide the dispute even if they do not attend. A decision cannot, however, be given against a party solely on the ground that it has not attended.

Under the Act, four arbitration courts were attached to the labour courts in the capitals of Bohemia, Moravia, Silesia, Slovakia and Carpathian Ruthenia. Each court consists of a president and his substitute, appointed from among the professional judges of the labour court by the Ministry of Social Welfare, in agreement with the Ministry of Justice, and of employers' and workers' representatives and their substitutes appointed by the Ministry of Social Welfare on the proposal of the organisations concerned.

Each sitting must be attended by five members, namely, the president and four assessors appointed by him, two representing the employers and two the workers.

If the court is unable to deal with the dispute on account of the absence of any assessors, the president must adjourn the proceedings. At its next sitting, the court may give a decision provided at least two assessors are present.

Assessors who without sufficient reason fail to attend on being summoned or who leave before the proceedings end may be fined not more than 500 K. and be required to bear the expense of any sitting they have thus rendered invalid.

Decisions are taken by a majority vote, the president voting last and having a casting vote. The court may summon witnesses and experts to attend. Its decisions are final; they may either be substituted for or supplement the collective agreement and are binding, during the period they prescribe, on all employers and workers concerned. If any provisions of the collective agreement would be less favourable to the wage earner than the conditions laid down in the arbitration court's decision or in a settlement arrived at in court, they are to be treated as null and void. If

the circumstances on which the court's decision or the settlement was based alter considerably during the period for which the decision or settlement is valid, either party may apply to the court for review.

REFERENCE LIST

A. Official Czecho-Slovak Publications

1. *Legislation*

Act No. 29/1920 of 12 December 1919, to regulate conditions of work and wages in home work[1].

Memorandum accompanying the above Act:
Document No. 1586, 1919 Session of the National Assembly.

Legislative Decree No. 118 of 15 June 1934, since amended and extended by Act No. 258 of 21 December 1937 respecting the compulsory extension of collective agreements and further extended by Legislative Decree No. 350 of 17 December 1938.

Legislative Decree No. 102 of 29 April 1935 to regulate the binding force of collective agreements in the textile industry, since extended by Decree No. 140 of 24 June 1937.

Legislative Decree No. 141 of 26 June 1937 to allow the compulsory extension of collective agreements in general.

Act No. 35 of 21 January 1923 (Chapter II) respecting arbitration courts in the building industry, since extended and slightly amended by Act No. 259 of 13 December 1937.

Minimum wage schedules are promulgated in the *Úřední list* (Official Gazette).

2. *Enforcement*

Annual reports of the labour inspectors published by the Ministry of Social Welfare.

B. Other Publications

J. Gruber and Jan Řípa: *Politique et Prévoyance sociales en Tchécoslovaquie en 1919-1920* (publication of the Social Institute in Prague).

Eugène Štern: *La législation ouvrière tchécoslovaque* (Prague (Orbis), 1921, 70 pages). (See Chapter IV, pp. 57-62.)

Dr. E. Štern: *Úprava pracovních poměrů domáckých dělníků* (Regulation of Conditions of Work for Home Workers), Publication No. 4 of the Social Institute in Prague.

Social Policy in the Czechoslovak Republic, edited by the Social Institute, Prague (Orbis), 1924, 260 pp.

Marie Purtikova, woman labour inspector: *Domácká práce v jabloneckém sklářském průmyslu* (Home Work in the Glass Industry), roneoed document.

[1] I.L.O., *Legislative Series*, 1920, Cz. 1.

FRANCE

Introduction

The various measures by which minimum wages are regulated in France consist, on the one hand, of the special legislation regarding home workers, and, on the other, of quite recent legislation providing for the fixing of the minimum wages of workers in commerce and industry in general by means of collective agreements and conciliation and arbitration.

The first measures relating to the fixing of minimum rates were the three Millerand Decrees of 10 August 1899. One of these made it compulsory to include in the stipulations of State contracts, and the other two made it possible to include in the contracts of departments, communes and welfare institutions, a clause obliging employers " to pay the workers a normal wage equal, for each trade and in each trade for each category of worker, to the rates generally applied in the town or district in which the work is performed ". In ascertaining these rates the administrative authorities were to refer to any agreements that might exist between the employers' and workers' organisations of the place or district, or, in the absence of such agreements, to consult the opinion of boards composed of equal numbers of employers and workers. These measures were applied very widely at certain times during the war of 1914-1918, and have exerted a certain influence on legislation.

As regards home workers, a movement in favour of the adoption of minimum wages first arose in France in 1910. It led to the tabling of a series of Bills in the Chamber, one of which — that of 7 November 1911 — was destined to become the first Act concerning the fixing of minimum wages for women home workers, passed on 10 July 1915. This Act covered only female workers — and ndirectly male workers — in the clothing industry; but it provided that its scope might be extended subsequently to other categories

of home workers. Under this provision, its scope was widened considerably by the Public Administrative Regulations of 10 August 1922 and 30 July 1926, by the Decree of 25 July 1935 and by the Act of 14 December 1928, which extended to *male* home workers the protection previously limited in the main to female home workers.

This legislation, despite its extension, is necessarily limited in scope by the fact that it is applicable only to home workers. But the entirely new system recently introduced by the Act of 24 June 1936 concerning collective agreements, and those of 31 December 1936 and 4 March 1938 concerning conciliation and arbitration procedure, is in fact a step towards the generalisation of minimum-wage regulation for all categories of workers in commerce and industry. Several important innovations in the Act of 24 June 1936 tend to realise this aim.

The Act provides that, at the request of any employers' or workers' organisation concerned, the Minister or his representative must convene " a meeting of a joint board for the conclusion of a collective labour agreement to regulate the relations between employers and workers in a specified branch of industry or commerce either for a particular district or for the whole territory ".

Collective labour agreements concluded in this manner are required to contain a series of provisions which form a real labour charter, including in particular a table of minimum-wage rates for the various categories and regions.

Finally, the provisions of such agreements, through a procedure laid down by the Act, may become " the basic regulations for the occupation, which may, when necessary, invalidate the provisions of more limited collective agreements and particularly collective agreements relating to specified establishments "[1].

It may happen, of course, that a joint board fails to conclude a collective agreement. But failure to conclude an agreement asked for by one of the parties constitutes a labour dispute which may be dealt with by the new conciliation and arbitration procedure, and the arbitrators and umpires may, in a case thus brought before them, lay down fair conditions of employment and in particular fair-wage rates, although they may not impose a collective agreement or order the incorporation of their award in an existing agreement.

In short, the new measures have completely transformed the liberal system which preceded them, and have given France

[1] *Ministerial Circular* of 17 August 1936.

minimum-wage regulations which resemble, in certain respects, those of Australia and New Zealand.

It should be added that France ratified on 9 August 1930 the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26).

Legislation at present in Force

A brief description may now be given of the scope of legislation concerning home workers and workers in industry and commerce in general, the procedure for its enforcement, the administrative bodies set up in connection with it, the machinery by which minimum wages are fixed, and the methods by which the observance of the Acts is supervised.

Minimum Wages of Home Workers

Scope

The Act of 10 July 1915, completed by that of 14 December 1928 concerning the fixing of minimum-wage rates for home workers, has been incorporated in Book I of the Labour Code, of which it forms sections 33-33 (*n*) and 99 (*a*). Its scope is determined in the original Act both by section 33, which limits its application to women home workers employed in certain branches of the clothing industry[1]—and incidentally to male home workers performing the same work—and by section 33 (*m*) which stipulates that the provisions of the Act may be made applicable, after consultation of the Superior Labour Council and by means of Public Administrative Regulations, to any other category of home workers.

The Act of 14 December 1928 subsequently extended the scope of the first of these provisions by eliminating the distinction between the sexes altogether and extending its application under the same conditions to male as well as to female home workers. Several Decrees issued under section 33 (*m*) widened the scope of the Act still further. One of these, dated 10 August 1922, brought under the Act certain industries subsidiary to the clothing industry and occupations similar to those already covered, whether connected with clothing or not; another, dated 30 July 1926, included a series

[1] Including the manufacture of hats, footwear, underwear of every kind, embroidery, lace, feathers and artificial flowers.

of trades not connected with the clothing industry (the manufacture of notepaper and other kinds of work with paper and cardboard, publicity work, woodwork, basket making, brush making, etc.); a third, dated 25 July 1935, extended the scope of the Act to workers in the silk and rayon weaving industries.

Machinery and Method of Fixing Wages

The Act entrusts the duty of fixing minimum wages primarily to the labour councils [1]. Where no such body exists, however, the prefect of the department must set up the departmental wages committee and the trade assessment committees which are destined by the Act to be substituted for it. The departmental wages committee must fix basic wages and minimum time rates, and the trade assessment committees, whose number may, if necessary, be equal to that of the trades concerned, must determine the time needed for the manufacture of mass production articles, with a view to the fixing of minimum piece rates. Rates so fixed may be contested by any person or occupational association affected in the trade. The final instance for appeals of this kind is a Central Board sitting at the Ministry of Labour. If, however, no objection is lodged against the rates within a month of their being fixed, they become compulsory, and serve as the basis of the awards of the probiviral courts and magistrates issued in settlement of labour disputes, especially disputes with regard to the wages of home workers.

The rates must further be included, in the form prescribed by a Decree of 24 September 1915 and within a month of their communication to the prefect by the committees, in the administrative records of the department. The prefect, whose duty it is to give the rates full publicity, must communicate them immediately to the local authorities and the secretariats or registrars of the probiviral courts and law courts of the district concerned, and must also hold them at the disposal of the public for information. The employers must thenceforward apply the rates as fixed and published, failing which they may be prosecuted in the civil courts by the injured parties, and also be liable to penalties.

The bodies to which, in the absence of a labour council (Act of

[1] These councils were provided for by the Act of 17 July 1908 concerning the establishment of Consultative Labour Councils (Labour Code, Book IV, sections 104-133); no council has yet been set up under the Act.

17 July 1908), the Act entrusts the fixing of minimum wages include: (1) the departmental wages committees; (2) the trade assessment committees; (3) the Central Board sitting at the Ministry of Labour and acting as final instance for appeals against the decisions of the departmental wages committees and the trade assessment committees. Finally, the probiviral courts are competent, under section 33 (*i*) of Book I of the Labour Code, to deal with disputes arising from the application of the Act and in particular to correct wage scales which are below the minima fixed according to the statutory procedure.

The *departmental wages committees* are composed of the magistrate (or the senior magistrate on the active list) in the chief town of the department, who is chairman *ex officio*, and equal numbers (varying between two and four) of employers and workers chosen from the industries concerned. These are chosen by the presidents and vice-presidents of the sections of the probiviral courts, where such courts exist in the department, and where no such courts exist or their representatives are not able to agree upon the choice of a sufficient number of employers and workers, by the president of the civil court.

The *trade assessment committees* differ in several respects from the wages committees, particularly in their composition and the manner in which their members are appointed. In the first place there is not one committee in each department, but several, the maximum number being that of the industries concerned in the department. It is the duty of the prefect to determine the centres and branches of economic activity in which trade assessment committees are to be constituted, and to define their field of competence. The committees are always composed of five members — two employers, two workers (male or female) and a chairman; the chair is held *ex officio* by the magistrate of the district in which the committee sits. As in the case of the departmental committees, the presidents and vice-presidents of the sections of the probiviral courts appoint the employers' and workers' members, though, in the absence of a court, it is the prefect, and not the president of the civil court, who performs this function.

The *Central Board* must be presided over by a member of the Supreme Court of Appeal appointed by that Court; the chairman has a casting vote in case of equality of votes. For each case the Board must also include: two members (one employer and one worker) of the departmental committee which has laid down the minimum wage contested; two representatives (one employer and

one worker) of the trade on the Superior Labour Council; two members of a probiviral court (one employer and one worker) elected by all the probiviral courts together; and one permanent investigating officer of the Labour Office appointed by the Minister of Labour and acting as secretary to the Board, with the right to vote.

The period of office of the members of the departmental wages committees, the trade assessment committees, and the Central Board, is three years, but may be renewed indefinitely.

The Act provides for two kinds of minimum wages or rates: (1) a minimum time rate fixed by the departmental wages committees, and (2) minimum piece rates applicable to the manufacture of mass production articles, fixed by the trade assessment committees, and based upon time rates.

The minimum time rate to be ascertained by the departmental wages committee, according to the Act, is " the daily rate of wages usually paid in the district in question to male or female workers in the same occupation and of average skill, who are employed in a workshop by the hour or by the day, and carry out the various processes usual in the occupation in question ". Where no workshop industry exists in the same branch of production as the home industry, the minimum wage is that paid to persons working under the same conditions in a similar industry or, in the absence of a similar industry, to day labourers (male or female) in the district concerned.

The minimum wage for piece work is calculated by multiplying the minimum hourly rates fixed by the departmental wages committee by the number of hours required, in the opinion of the trade assessment committees, for the performance of the work involved in the manufacture of mass production articles. The rate must be sufficient to enable a male or female worker of average skill to earn, in eight hours, a wage equal to the minimum laid down by the wages committees[1].

Time and pieces rates thus fixed do not become compulsory until one month after their publication in the administrative records of the department, and then only if no objection has been lodged against them during this period by the Government, a trade association or person concerned, or some authorised asso-

[1] Since the application of the Forty-Hour Week Act of 21 June 1936 to factory workers in the industries concerned, the wages of home workers have generally been fixed on the basis of these working hours.

ciation[1]. In the event of an objection being lodged, however, the rates do not become compulsory until a decision has been taken by the Central Board[2].

Finally, section 33 (*e*) of the Act provides that the departmental wages committees and trade assessment committees must revise their rates not less than once every three years.

Enforcement

The measures of enforcement provided for in the Act aim principally at: (1) facilitating the work of checking the application or non-application of the Act; (2) ensuring the supervision, in the strict sense, of the application of the Act; and (3) setting up a system of fines and penalties for infringement.

The comparison of actual wages with the compulsory minima fixed by the wages committees and the trade assessment committees is facilitated, for the parties involved, by provisions of the Act which ensure that wide publicity shall be given to the rates laid down, require that the prices paid for making mass production goods shall be posted up in the rooms in which the work is given out and handed in, and oblige the employer to supply to each worker a ticket with a counterfoil attached, or a book, stating the nature and quantity of the work, the date on which it is given out, the manufacturing rate which applies, the nature and value of the requisites for which the worker has to pay, the date upon which the work is to be handed in and the total formed by the wages, and by the value of the various materials actually supplied by the home worker.

These provisions also assist the factory inspector in his task, for they make it possible for him to be kept informed by the employer of all home workers in his employment, and he can refer to the register in which the employer is bound by the law to enter the names and addresses of these workers.

The powers of the factory inspectors in this connection are defined in the special provisions contained in sections 33 (*a*), 33 (*b*), 33 (*c*)

[1] Section 33 (*k*) of Book I of the Labour Code makes an exception to common law, and permits associations specially authorised by Decree issued on the recommendation of the Minister of Labour, and the trade associations concerned, to institute proceedings at civil law without being bound to prove loss.

[2] The Act also lays down that if it is found impossible to set up a wages committee or a trade assessment committee in a department, minimum wages must be fixed by the prefect, who must use the information supplied by the competent organisations and persons and the labour inspectors.

and 33 (*n*) of Book I of the Labour Code, and in sections 105-107 of Book II, which define their general sphere of competence. They thus have access to the places in which work is given out and handed in in establishments employing home workers, and may consult all registers and counterfoil-books kept by the employers. Although no provision of the Labour Code expressly empowers them to do so, they may also visit the homes of the workers in order to verify the accuracy and *bona-fide* character of the entries in the employer's registers and counterfoil-books and on the tickets delivered to the home workers. Finally, they must draw up reports in cases in which irregularities are found to exist. Inaccurate entries are considered as fraudulent, and are punishable by fines varying, according to the nature of the case, between 5 and 15 or between 16 and 100 francs, the maximum fine, for repeated offences by the same party, being 3,000 francs.

The Act does not expressly authorise the labour inspectors to verify the conformity of the wages paid with the minima laid down. The observance of the Act in this respect can be ensured only by civil action taken before the probiviral courts or the magistrates[1] by the workers whose interests are affected, or the trade associations or corporate bodies authorised by Decree, or by both. The Act provides that the amount by which actual wages fall short of the compulsory minimum must be made up to the worker, irrespective of any special compensation which may be granted him.

Minimum Wages of Workers in Industry and Commerce

As has already been stated, several Acts, separate in form but united and complementary in their object, set up the new wage-fixing machinery for workers in industry and commerce in general. There is the Act of 24 June 1936 concerning collective agreements, on the one hand, and, on the other, the Acts of 31 December 1936 and 4 March 1938 concerning conciliation and arbitration procedure. These measures, taken together, may now be examined by the same method as that used for the legislation regarding the minimum wages of home workers.

[1] Workers' claims regarding certain rates paid by the employers (section 33 *(j)*), must be made within one month.

Scope

The Acts just referred to begin by defining their scope in a very general fashion, mentioning the main categories of workers covered, before specifying more closely their field of application in each particular case.

Thus, the collective agreements provided for by the Act of 24 June 1936 and the conciliation and arbitration procedure defined by the Act of 31 December 1936 cover workers in industry and commerce only and exclude agricultural workers. A Bill adopted by the Chamber on 24 February 1938 provided for the extension of the scope of the Act concerning collective agreements to new categories of workers, and in particular to agricultural workers, while the Act of 4 March 1938 included these workers in the scope of the Act concerning conciliation and arbitration procedure, providing for the subsequent introduction of an Act laying down a special procedure to be followed for such workers. But no action has yet been taken to give practical effect to these provisions.

On the other hand, the collective agreements provided for by the Act of 24 June 1936 and the Bill recently adopted in the Chamber regulate the relations between employers and workers in specified branches of industry or commerce in specified districts or throughout the country, and are binding upon the contracting parties both present and future. Further, a fundamental innovation introduced by the recent legislation is the provision that agreements concluded by the delegates of the most representative employers' and workers' organisations of the district or whole country in the branch of industry or commerce concerned may be made compulsory by Ministerial Order for all employers and workers in the trades and areas covered, and may thus replace all other agreements of more limited scope. The minimum-wage rates fixed in agreements of this kind may therefore attain very general application.

The collective agreements are concluded for a specified period, which must not exceed five years, or for an unspecified period, in which case they may be denounced at any time by either of the parties, subject to one month's notice being given.

Machinery and Method of Fixing Wages

Under the new legislation, therefore, minimum wages are fixed either by means of collective agreements of generalised application or, in the absence of a collective agreement, by arbitration award.

In the former case proceedings can now be instituted upon

the initiative of one of the parties, the agreement of both no longer being necessary as in the past; the employers' or workers' organisation concerned [1] may request the Minister of Labour or his representative to convene a joint preparatory committee with a view to the conclusion of a collective labour agreement. It is important to note the innovation here introduced, which marks a step towards the generalisation of collective agreements in France.

The joint committee, convened by the Minister, and composed of delegates of the most representative employers' and workers' organisations in the branch of industry or commerce concerned, either in the region in question or, in the case of national agreements, in the country as a whole, discusses and prepares the text of the collective agreement. Section 31 (c) lays down that the agreement must determine, among other matters, minimum wages for each category and district, the procedure to be followed in settling all disputes between the employers and workers covered by its provisions, and the maximum period—not to exceed one month for the whole proceedings or eight days for each phase—for the settlement of any dispute [2]. These provisions may be made compulsory, by Ministerial Order, for all employers and workers in the occupations and districts included in the scope of the Act.

If the joint committee fails to agree upon the terms of a collective agreement, and in particular upon the minimum-wage rates to be laid down, the parties may resort to the conciliation and arbitration procedure defined in particular by the Act of 4 March 1938. Collective disputes which it is not found possible to settle within the time-limit set by the agreement must be submitted to a joint conciliation board, and, in case of the failure of the board, for arbitration to two arbitrators appointed by the parties, and, in the last resort, to an umpire chosen by these two arbitrators or, failing agreement between them, by the prefect or the competent Minister; the decision of the umpire, as far as the merits of the case are concerned,

[1] The words of the Bill adopted by the Chamber on 24 February 1938 are: "an employers', craftsmen's, agricultural or workers' organisation concerned".

[2] Experience has shown that the parties to a collective labour agreement frequently have difficulty in organising the contractual conciliation and arbitration procedure laid down in the opening sections of the Act of 4 March 1938. It is for this reason that the Administration, in agreement with the view expressed by the Council of State, considers, when examining applications for the extension of collective agreements, that mere reference to statutory and regulation procedure (section 7 of the Act of 4 March 1938) is sufficient to make an agreement satisfy the conditions for extension as regards this point. This interpretation has been adopted by the National Economic Council in opinions given concerning draft Orders for the extension of collective agreements. (Note by the Ministry of Labour.)

is final. No appeal lies against the award of the arbitrators or the umpires except to the Supreme Court of Arbitration, and then only in cases of incompetence, *ultra vires* action, or contravention of the Act. Appeals to the Supreme Court of Arbitration may be allowed only by the Minister of Labour; they must be required in the public interest, and the opinion of the Permanent Committee of the National Economic Council must first be obtained.

This procedure applies not only to disputes arising in connection with the fixing of minimum-wage rates, but also, under the terms of the Act, to those arising from variations in the cost of living and affecting the revision of clauses referring to rates in existing collective agreements.

The Act lays down that arbitration awards relating to the interpretation of existing collective agreements or to wages have the same force as collective agreements and may, like them, be extended by Ministerial Orders making them binding on all employers and workers in the trades and districts concerned.

It will be seen from what has just been said regarding measures of enforcement that the new Acts have not provided for the creation of special permanent bodies for the administration of collective agreements, but leave the task to existing organisations and authorities. The only special body contemplated is a joint committee composed of delegates of the most representative employers' and workers' associations in the branch of industry or commerce in the district concerned, or in the country as a whole, whose duties and term of office are confined to the preparation of the text of the agreement. The registration and denunciation of collective agreements are effected at the offices of the probiviral courts and of the magistrates' clerks; applications from the employers' or workers' organisations for the convening of the joint committees to prepare agreements must be made, as already stated, to the Ministry of Labour or his representative; and the generalisation, by Order, of the scope of collective agreements within a trade, a district, or the country as a whole, is the function of the Minister of Labour.

The case is different, however, as regards conciliation and arbitration procedure, for here the Acts provide both for the conciliation and arbitration bodies for each collective agreement, limiting their period of office to the period of validity of the agreement, and for a permanent Superior Arbitration Court acting as final instance of appeal. The joint boards, which, according to the Act, must be provided for in every collective agreement, are presided over by

the prefect or his representative. Provision must also be made in every collective agreement for the appointment of arbitrators and umpires, whose duty it is to decide disputes not settled by the joint boards; the sole qualification required of these persons is that they must be French citizens in possession of civil and political rights. If the parties are unable to agree upon the appointment of the umpires, the umpires must be nominated by the president of the court of appeal in the district of the joint board.

The function of the Superior Arbitration Court, the final instance in the scheme of conciliation and arbitration, is to take final decisions on appeals based on grounds of incompetence, *ultra vires* action, or contravention of the Act, made by the parties concerned or the Minister of Labour, or appeals based on grounds of public interest and relating to the merits of the case made by the Minister of Labour. The Act of 4 March 1938 and the Decree of 3 April of the same year, which set up the Superior Arbitration Court, provide that the Court must include, besides the vice-president of the Council of State, who must be its president : (1) one president of section of the Council of State, two State Councillors, two magistrates of high rank, and two highly-placed State officials, either retired or serving; and, for decisions affecting the merits of a case, two employers' representatives and two workers' representatives appointed by the employers' and workers' representatives on the Permanent Committee of the National Economic Council; and (2) an equal number of State Councillors, high magistrates, highly-placed State officials, retired or serving, and employers' and workers' representatives, appointed as substitutes and selected from the same groups as the titular members, whom they are to replace when the titular members are prevented from performing their duties[1].

The Act requiring collective agreements to lay down minimum-wage rates for the workers covered does not state by what method these rates are to be fixed, but provides only that they shall be fixed for each category of workers and each district. The rates are thus determined by the free negotiation of the interested parties upon the joint committee responsible for the drafting of the agreement, or, if they fail to agree, by decision of the arbitrators.

[1] Under a Legislative Decree of 12 November 1938, " Honorary presidents, vice-presidents and presidents of section of the Council of State, and honorary State Councillors may be appointed to the presidency of the Superior Arbitration Court or to act as substitutes for active members of the Council of State in the Court ".

Nevertheless, the procedure for the revision of these rates, which becomes applicable in the case of settlement by the conciliation and arbitration bodies of disputes arising from variations in the cost of living, is defined in detail by the Act of 4 March 1938 concerning arbitration and conciliation procedure. This Act provides that the minimum-wage rates, fixed in the first place, as just described, by negotiation between the parties or by arbitration, must vary with changes in the cost of living. When the official index figure rises or falls by five per cent. or more the arbitrators may make a proportionate change in the minimum-wage rates laid down in the collective agreement. Such a revision may not be effected more than once in every six months unless the cost of living varies by more than 10 per cent., " in which case the revision may be effected as soon as the index figure becomes known ".

But the Act attaches an important condition to the application of this general procedure, namely, that it must be compatible with the resources of the local, regional or national economic activity affected by the demand for revision. If the parties concerned are able to prove that this condition is not satisfied, the arbitrators and umpires may fix rates at a level which takes into account the position of the economic branch affected.

The cost-of-living index used for the purposes of the Act, unless the parties agree to use another index, is the official quarterly index for a working-class family of four persons living in the department concerned, or, in the absence of such an index, the average of the corresponding indexes for the neighbouring departments. The official index is under the supervision of a special committee presided over by a high official of the Audit Office [1].

Enforcement

The new legislation contained no provisions to ensure the strict enforcement of the collective agreements and arbitration awards and did not, therefore, guarantee the observance of the minimum rates fixed. Various measures of still more recent date, however, have completed the legislation in this respect.

[1] Under section 2 of the Decree of 24 November 1938 (published in the *Journal officiel* of 25 November under the heading " *Ministère de l'Economie nationale* "), " the cost-of-living indexes calculated by the departmental commissions shall not be used for the application of the Act of 4 March 1938 concerning conciliation and arbitration procedure until they have been published in the *Recueil des Actes administratifs*. The High Commission may postpone such publication if it considers that verification of the calculations is necessary ".

A Decree of 2 May 1938 concerning production makes applicable to collective agreements extended by Order the measures requiring employers to post up workshop rules in their workplaces and in the premises or on the doors of the premises where workers are recruited (section 22 of Book I of the Labour Code).

The same Decree, following the example set by the provisions concerning home workers, makes it a penal offence to fail to pay the wage fixed in a collective labour agreement or arbitration award extended by Order. The labour inspectors are authorised to mention contraventions of this nature in their reports, but it is provided that penal action can be taken against such offenders only if the Minister of Labour considers it desirable and himself institutes legal proceedings.

A Legislative Decree of 12 November 1938 concerning conciliation and arbitration procedure provides that an employer's failure to observe an award of an arbitrator or umpire which has become final may be punished by a fine of up to 1,000 francs for each day of such failure, and that it may also entail the ineligibility of the employer (or group of employers) responsible, for a period of three years, to membership of the chambers of commerce, chambers of crafts, commercial courts, and probiviral courts, and their exclusion during the same period from all participation in contracts for work or supplies for the account of the State or a public body. Similar failure on the part of a worker constitutes an unjustified breach of the individual contract of employment, and entails the loss of the right to allowances in lieu of notice and on termination of contract, and to holidays with pay.

Another provision of the same Decree authorises the trade associations to participate in all actions arising from a conciliation agreement or an award of an arbitrator or umpire and involving any of their members, without being obliged to show that the person concerned has delegated special powers to them, provided that he has been informed and has not declared himself opposed to such participation.

Finally, a Legislative Decree of 12 November 1938 defining the status of staff representatives introduces a new section into the Labour Code (section 31 (*v g*)), the former section 31 (*v g*) becoming section 31 (*v h*)), the purpose of which is to give trade associations the same powers in respect both of collective agreements to which they are a party and of Orders extending arbitration awards under section 18 of the Act of 4 March 1938 concerning conciliation and arbitration procedure.

Application of the Legislation

A number of more or less precise conclusions may be formulated as regards the application of the legislation concerning the minimum wages of home workers, which dates back for over twenty years; but this is not the case with the quite recent legislation dealing with collective agreements and conciliation and arbitration procedure, upon which, obviously, only preliminary observations can be made.

This survey must be confined to necessarily brief remarks, but a distinction may be made between observations relating to the application of the legislation in the strict sense and those relating to its effects as regards the principal aims pursued, namely : (1) the protection of the economically weakest workers (Act concerning the minimum wages of home workers), (2) the adjustment of wages (Acts concerning collective agreements) and (3) the improvement of industrial relations (Act concerning conciliation and arbitration procedure).

Application of the Legislation concerning the Minimum Wages of Home Workers

TABLE I. — APPROXIMATE NUMBER OF ESTABLISHMENTS AND OF WORKERS COVERED BY THE ACT OF 10 JULY 1915 CONCERNING THE MINIMUM WAGES OF HOME WORKERS

Year	Number of establishments employing :				Number of workers in establishments employing :			
	Less than 10 workers	10-100 workers	100 workers and more	Total	Less than 10 workers	10-100 workers	100 workers and more	Total
1916 [1]	1,728	2,960	365	5,053	6,959	91,655	109,704	208,318
1926 [2]	5,233	3,802	247	9,282	22,608	98,512	50,001	171,121
1936 [3]	4,624	2,343	120	7,087	19,008	51,320	18,883	89,211

[1] *Bulletin du Ministère du Travail*, August-September-October 1918.
[2] *Bulletin du Ministère du Travail*, July-August-September 1928.
[3] The most recent figures available, communicated by the French Government.

It has already been explained how the scope of the Act of 10 July 1915 has been extended, by successive Decrees, to a series of branches which it did not originally cover, and by the Act of 14 December 1928 from female to male workers [1]. As will be seen,

[1] See above pp. 79-80.

however, from the table reproduced above, this extension has not resulted in a corresponding increase in the number of establishments or of workers covered. On the contrary, the number of establishments covered, according to the inspectors' reports, fell by nearly 2,000 between 1926 and 1936, and the number of workers by nearly half.

The wages committees and the trade assessment committees provided for by the Act have been set up, and have worked normally, in most departments. Information on this matter is somewhat out of date, but it shows that in 1928 wages committees existed in every department, though in the recovered departments of Moselle and Bas-Rhin they had not at that time taken any decisions. A trade assessment committee also existed in every department except those of Deux-Sèvres, Moselle and Bas-Rhin, though the committees of Maine-et-Loire and Haut-Rhin had not, in 1928, taken any decisions [1].

TABLE II. — NUMBER OF CONTRAVENTIONS OF THE ACT CONCERNING THE MINIMUM WAGES OF HOME WORKERS (INSPECTORS' REPORTS)

	1917[1]	1926[2]	1936[3]
Number of visits made by the departmental labour inspectors to home workers	4,239	332	—
Number of contraventions reported :			
Section 33 (a)			
Statements of the inspector	27	28	8
Contents of the registers	138	3	4
Section 33 (b)			
Posting up of vates	21	11	5
Section 33 (c)			
Delivery of counterfoil-books	40	15	—
Entries on tickets	306	1	—
Adherence to posted rates	21	1	4
Presentation of counterfoils and registers	4	—	—
False statements	—	—	—

[1] *Bulletin du Ministère du Travail*, August-September-October 1918.
[2] *Bulletin du Ministère du Travail*, July-August-September 1928.
[3] The most recent figures available, communicated by the French Government.

In the absence of statistics of the inspectors' visits for certain of the years considered, care must be taken in explaining the

[1] *Bulletin du Ministère du Travail*, 1928, p. 300 : results on 1 August 1928 of the application of the legislation concerning home work.

relatively small number of contraventions notified, which may be due to a decline in the number of visits made by the inspectors; such a decline is shown, for instance, by the data available for 1917 and 1926.

Application of the Legislation concerning the Minimum Wages of Workers in Industry and Commerce

If it is remembered that less than two years have elapsed since the adoption of the first two Acts on collective agreements and conciliation and arbitration procedure, and that these Acts have quite recently been amended substantially, it will be understood why only the most rapid and summary review of this intermediate period can be attempted here.

One fact, however, stands out very clearly, namely, a considerable increase in the number of collective agreements concluded: the number of agreements registered at the Ministry of Labour between September 1936 and 15 September 1938 was 5,493[1].

It will be recalled that the Act attributes special importance to agreements extended by means of Ministerial Orders and thus made compulsory for the trade or district for which they have been concluded. Of the 5,493 agreements just referred to, which concern most of the different branches of industry and commerce, 1,172 had, on 15 September 1938, been made the object of applications for extension, and 226 had actually been extended by Order. Most of these agreements are regional in scope, but some of them, and particularly those relating to retail trade in goods other than foodstuffs, the wood industry, road transport, theatrical undertakings, and hairdressing saloons and beauty parlours, cover the whole country.

Besides the development of collective agreements since the coming into force of the Act of 24 June 1936, mention must be made of the many difficulties overcome during the same period by means of conciliation and arbitration. In an article on the prevention and peaceful settlement of industrial conflicts[2], Mr. Jules Moch, Member of Parliament and former Under-Secretary of State to the President of the Council, sums up as follows the results of the Act: " This Act has fulfilled its purpose; it has avoided, in a period of twelve

[1] *Bulletin du Ministère du Travail*, July-August-September 1938, p. 323.
[2] *Journal de Commerce*, 13 January 1938.

months, the loss of millions of days in strikes, and has brought about in their place over 5,000 conciliations and nearly 1,000 awards by umpires. The awards have all been observed, with the exception of 53 cases of violation, of which employers were responsible for 43 and workers for 10. "

Here again, however, a certain number of weaknesses have shown themselves in practice: the slow movement of the machinery of settlement; the possibility of a conflict of authority arising in addition to the initial dispute as a result of the contestation, by one of the parties, of the collective character of the conflict—a condition of the application of the Act—and finally, the absence of adequate penalties. Two measures, however, have been adopted in order to remedy these deficiencies. The Act of 4 March 1938 concerning conciliation and arbitration procedure speeded up the whole machinery by defining the powers of certain authorities and giving executive force to the decisions of the arbitrators and umpires; and the Decrees of 2 May and 12 November 1938 prescribed penalties for failure to observe the decisions pronounced.

Some Results of the Legislation

The information given below, incomplete and fragmentary as it is, will nevertheless help in forming some idea of the value of the legislation under review in relation to some of its principal objectives, namely: (1) the protection of the workers in the weakest economic position; (2) the general adjustment of wages; and (3) the improvement of industrial relations.

Protection of Workers in the Weakest Economic Position

The tables given below show, for a certain number of departments and for certain branches of the clothing industry, the minimum hourly wage rates of home workers, most of which were fixed in 1937, though a few were fixed in 1936, by the departmental wages committees. It will be seen that the rates vary considerably from one department to another, particularly in the ready-made clothing industry, in which they vary from 1.75 francs in Aude to 4.70 francs in Seine-et-Oise, the manufacture of underclothes, in which the rate is 1.50 francs in Seine-et-Marne and 3.75 in Loire, and the manufacture of footwear, in which it is 2 francs in Deux-Sèvres and 7.70 in Seine. In some cases the rates are flat rates, applicable to all home workers in the clothing industry (Lot, Haute-

TABLE III. — MINIMUM HOURLY RATES, EXCLUSIVE OF MATERIALS SUPPLIED BY THE HOME WORKERS, FIXED BY VARIOUS DEPARTMENTAL WAGES COMMITTEES

(French francs)

Department	Year fixed	Men's clothing		Women's clothing		Underwear		Footwear	
		Minimum categ.	Maximum categ.	Minimum categ.	Maximum categ.	Minimum categ.	Maximum categ.	Minimum categ.	Maximum categ.
Aube	1937	← 3.50 (F) and 4.- (M) →							
Aude	1937	← 1.75[1] to 5.-[2] →						—	
Bouches-du-Rhône	1937	3.50	5.50	3.85		3.25[3]	3.75[4]	4.75	
Corrèze	1937	—		—		3.25		—	
Charente	1937	2.-[5]	2.40[6] 4.33[7]	- -		2.50		2.60[8]	
Côte-d'Or	1937	2.60[9]		2.10		2.10		—	
Deux-Sèvres	1936	2.-[10]	2.25[11]	2.25		2.13		2.-	
Drôme	1937	3.-		—		3.25		3.50	
Finistère	1937	2.25	3.25[11]			—		—	
Gironde	1937	2.10[12]	3.14[13]	2.60[14]	3.10[15]	2.60	3.40	—	
Jura	1936	2.50[16]	3.60[16]			2.50			
Loire	1937	3.50		3.75		3.75[3]	4.75[4]	2.75	
Loire-Inférieure	1937	3.65	6.-			3.-[17]	5.-[18]	-	
Loiret	1937	← 2.20 (F) and 3.75 (M) →							
Lot	1937	← 2.50 →							
Lozère	1937	2.-	2.75						
Marne	1937	← 3.25 to 6.50[16] →				2.90		5.10	
Haute-Marne	1937	← 2.70 →							
Meuse	1937	—		- -				2.10(F)[19] 2.75 (M)	
Nord (Feb.)	1937	2.35	3.05	2.05	2.95	1.75	2.65		
Orne	1937	← 2.- →						-	
Pas-de-Calais	1937	2.75 (F)	4.75 (M)	- -		2.55(F)[20] 3.-(F)[21]		2.25 (F)	4.- (M)
Basses-Pyrénées	1937	← 3.90 →						3.30	
Hautes-Pyrénées	1937	3.[22]	5.70			3.25[23]		-	
Rhône	1937	3.-	5.10	3.90	4.80			4.80	
Saône-et-Loire	1936	← 2.- to 2.30[24] →							
Sarthe	1937	2.20	3.30	2.70	3.10	2.05	3.10	2.75	3.25
Seine	1937	2.80	7.30[16]	2.86	5.95[16]	—	—	7.70	9.18[25]
Seine-et-Marne	1936	2.25	5.-	- -	—	1.50		-	—
Seine-et-Oise	1937	← 4.70 →							
Somme	1937	← 2.25 →				2.15		2.35	
Tarn	1936	1.90[26]	2.-[27]	-	- -	1.90[28]			
Tarn-et-Garonne	1937	← 2.25 (F) 3.- (M) →							
Vaucluse	1936	← 2.- and 2.50[16] →				2.-[28]		2.50	
Haute-Vienne	1937	3.[29]	3.17[30]	—		2.70[28]	3.-	3.60	
Vosges	1937	← 2.25 →						3.75	
Yonne	1936	← 2.-[10] 2.25[11] →				1.75			

(M) Minimum wages of male workers. - (F) Minimum wages of female workers. — [1] Female learners. — [2] Bespoke tailoring workers. — [3] Ordinary underwear. — [4] Fine underwear. - [5] Large-scale manufacture of ready-made clothing. — [6] Minimum wages of female workers engaged in the manufacture of made-to-measure clothing. - [7] Minimum wages of male workers engaged in the manufacture of made-to-measure clothing. - [8] Shoes and cloth shoes. — [9] Civil and military ready-made tailoring. - [10] Ready-made clothing. — [11] Made-to-measure clothing. - [12] Shop girls. — [13] Made-to-measure clothing. — [14] Ready made clothing. — [15] Made-to-measure clothing. - [16] According to categories. — [17] Women's underwear. — [18] Men's underwear. — [19] Cloth shoes. — [20] Saint-Omer. — [21] Arras. — [22] Female workers (second category); for shop girls, hourly pay according to ability. - [23] Men's underwear. — [24] All categories of home workers, 2 frs. except job workers, for whom the rate is 2.30 frs. - [25] Bootmakers, according to categories. — [26] Pointers. — [27] Trouser makers, waistcoat makers. — [28] Shirt makers. — [29] Manufacture of clothing by mass production. — [30] Made-to-measure clothing.

SOURCE : *Recueils administratifs* of the various departments.

Marne, Seine-et-Oise), while in others they are multiple rates corresponding to the various occupations in one and the same branch or to the character of the work performed (hand work, machine work, ready-made or made-to-measure clothes manufacture, the making of ordinary or luxury articles, etc.).

One example—that of the workers in the men's and women's clothing industry in the department of the Seine—will suffice to illustrate the beneficial effect, shown also by the figures in the table above, of minimum-wage legislation upon the remuneration of home workers. Between 1916 and 1936, the minimum hourly rate of these workers rose from 0.50 fr.[1] to 4.72 frs., the average rate during the last year of this period being $9^1/_4$ times that of the first year, as compared with a coefficient of increase in the cost of living of only about 6.5[2]. This result appears particularly remarkable, but account must be taken of the amount by which the wages of home workers were below those of factory hands before and at the beginning of the war. Yet even so, there is no doubt that the position of home workers improved during the period in question, though not perhaps to the same extent as that of factory workers.

Although the minimum-wage rates quoted in the table above indicate a certain degree of adjustment when compared with those fixed a few years earlier, the increase does not appear quite to equal the increase which took place in the wages of factory workers after the application of the Forty-Hour Week Act of 21 June 1936[3]. Nor does the table reveal the further disparity caused by the grant of advantages such as holidays with pay to factory workers under the new social legislation.

In a Circular relating to the revision of the wage rates of home workers, sent out in February 1937 by the Minister of Labour to the prefects and divisional labour inspectors[4], the Minister drew attention to the harmful consequences of the disparity between the wages of home workers and those of factory workers; he stated, in particular, that manufacturers had recently shown a tendency to reduce their factory staff and distribute work to home workers on a

[1] *Bulletin du Ministère du Travail*, April-May 1917.

[2] The cost-of-living index for Paris (1914 = 100) issued by the Cost-of-Living Research Board was 658 for the fourth quarter of 1937 (*Bulletin du Ministère du Travail*, October-November-December 1937).

[3] This Act, which provided for the reduction of the working week from 48 to 40 hours, without any reduction of weekly wages, resulted in a rise in hourly rates. In the department of the Seine, the wage increases of home workers varied between 10 and 20 per cent.

[4] *Journal Officiel*, 26 February 1937, p. 2486.

piece-rate basis — a system which they had found cheaper for the moment; and he concluded by announcing that a Bill was shortly to be introduced for the purpose of bringing section 33 (*d*) of Book I of the Labour Code, which provides that the minimum wages of home workers shall be based on a working day of eight hours, into harmony with the Forty-Hour Week Act.

The question came before the Superior Labour Council at its session of 16 November 1937, and two draft schemes were examined. The Council concluded by adopting the following resolution, which states in summary form the improvements which it considered necessary in the legislation regarding the minimum wages of home workers [1] :

" The Superior Labour Council calls upon the Administration :

" (1) to ensure the strict application of the legislation for the protection of the home workers mentioned in sections 33 *et seq.* of Book I of the Labour Code;

" (2) to simplify and accelerate the procedure for the extension of these provisions to other categories of home workers; it expresses the opinion that the benefits of social legislation as a whole should be extended :

" (*a*) to the workers mentioned in section 33 of Book I of the Labour Code;

" (*b*) to persons regularly and habitually working at home with their wives (husbands) and the children dependent upon them, with or without assistants, for the account of one or several employers. "

General Adjustment of Wages

Most of the collective agreements concluded do no more than lay down minimum-wage rates, not mentioning the percentage of increase which the new rates represent as compared with those previously paid. They do not, therefore, permit of comparison with the past, although, as stated in the enquiry on wages in France carried out in October 1936 and published by the Ministry of Labour [2], they provide a useful basis for future comparison, between the different regions, not only of the wages of ordinary workers, but also of those of categories about whose conditions of remunera-

[1] *Bulletin du Ministère du Travail*, October-November-December 1937.
[2] *Bulletin du Ministère du Travail*, January-February-March 1937.

tion little is known at present (bank and insurance employees, sales staff in shops, etc.).

A clearer estimate of the wage adjustments effected may be formed, however, by reference to the Matignon Agreement concluded on 7 June 1936, at the Prime Minister's Office, by the General Confederation of French Production and the General Confederation of Labour. This agreement, which provided for the conclusion of collective labour agreements, laid down at the same time the increases in real wages to be effected by the agreements over the levels prevailing on 24 May 1936; the percentage of increase varied between 7 and 15 per cent., the average being 12 per cent. Special provision was also made for the readjustment of abnormally low wages.

The percentages just quoted give only a very general indication of the changes which have taken place, and an estimate of the consequences of the agreement is rendered still more difficult by the changes which have taken place in the cost of living and in exchange rates.

Finally, mention should be made of other Acts, besides that concerning collective agreements, which were adopted in 1936 for the purpose of directly influencing workers' rates of pay. The Act of 20 June 1936, for instance, introduced holidays with pay in industry, commerce, the liberal professions, home work, and agriculture, while the Act of 21 June 1936 established a working week of 40 hours in industry and commerce, providing at the same time that this reduction of weekly hours, which constituted in fact an increase of about 20 per cent. in hourly rates, must not result in any reduction in the workers' standard of life.

Industrial Relations

Although generalisation about the effect of the new legislation relating to conciliation and arbitration upon industrial relations is difficult, it may be asserted that the passage of this legislation has been followed by a substantial decline in the number and intensity of strikes. The following declaration[1] made by Mr. Jacquier, Rapporteur in the Senate, regarding the Bill which subsequently became the Act of March 1938 concerning conciliation and arbitration procedure, is of interest in this connection :

" Arbitration has been practised on a wide scale for a little more than a year; between 1 January 1937 and 24 February 1938,

[1] *Journal Officiel*, 26 February 1938, p. 193.

1,431 umpires were appointed and 915 awards made. It cannot be said that this arbitration has given absolutely decisive results, since strikes, sometimes accompanied by illegal action, have not yet ceased altogether.

" According to information supplied to me by the Ministry of Labour at the end of May 1937—I have not been able to find out whether this information has since been confirmed or invalidated—arbitration procedure had at this date worked normally, and had prevented the stoppage of work before, during and after the proceedings in about half the total number of disputes.

" In the other half of the cases, strikes of shorter or longer duration had been declared, generally before the opening of the conciliation and arbitration proceedings. I say ' before ', because it very rarely happened that a strike followed an arbitration award; although the awards, compulsory under the Act, are not accompanied by penalties for violation, they have usually been observed...

" I do not consider, gentlemen—and this is my conclusion regarding the experience of the year—that the results obtained are unsatisfactory on the whole, since no one at present shows any opposition to the principle upon which the procedure is based. "

This statement may be compared with the figures quoted in the *Bulletin du Ministère du Travail* of July-August-September 1938 regarding the application of the Act of 4 March 1938, which showed that between 5 March and 1 October of that year 1,157 umpires were appointed by the Ministry of Labour, 1,634 awards were issued, and 177 umpires were appointed by the Superior Arbitration Court after the quashing of the original award. The same publication records that out of 6,199 disputes brought before departmental conciliation boards—i.e. subjected to the statutory conciliation and arbitration procedure—between 1 January 1937 and 30 April 1938, 2,640 were settled by agreement between the parties in accordance with the conciliation procedure without the necessity of resorting to arbitration.

REFERENCE LIST

I. French Official Publications

(a) *Home Workers*

Labour Code, Vol. I, Book I, Part III, Wages, Chap. I; the Fixing of Wages (sections 33-33 *(n)*).

Bulletin du Ministère du Travail, 1915, p. 64[x] : Circular of the Minister of Labour dated 24 July 1915 relating to the wages of women home workers in the clothing industry.

Bulletin du Ministère du Travail, p. 85 [x]: Decree of 24 September 1915 issuing public administrative regulations for the carrying out of the Act of 10 July 1915 amending Parts III and V of Book I of the Code of Labour and Social Welfare.

Idem, 1917, p. 235 : first results of the application of the Act of 10 July 1915 concerning the wages of women home workers in the clothing industry.

Idem, 1918, p. 362 : results on 1 October 1918 of the application of the Act of 10 July 1915 concerning the wages of women home workers in the clothing industry.

Idem, 1922, p. 79° : Decree of 10 August 1922 issuing public administrative regulations for the carrying out of section 33 (*m*) of Book I of the Labour Code.

Idem, p. 82° : Circular of 11 September 1922 concerning the application of the Decree of 10 August 1922 relating to the wages of women home workers.

Idem, 1925, pp. 237-254 : results on 1 August 1925 of the application of the Act of 10 July 1915 and the Decree of 10 August 1922 concerning home work.

Idem, 1927, p. 8° : Decree of 30 July 1926 issuing public administrative regulations for the carrying out of section 33 *(m)*, subsection 2 of Book I of the Labour Code.

Idem, 1928, p. 300 : results on 1 August 1928 of the application of legislation concerning home work.

Idem, p. 489 : amendments to the legislation concerning the wages of women home workers in the clothing industry.

Idem, 1929, p. 8° : Circular of the Minister of Labour, dated 28 February 1929, concerning the application of the Act of 14 December 1928 relating to the wages of women workers.

Idem, p. 114° : Decree of 10 May 1929 amending the Decree of 24 September 1919 issuing public administrative regulations for the carrying out of section 33 (*h*) of Book I of the Labour Code (wages of women home workers in the clothing industry).

Idem, 1930, p. 118° : Act of 9 August 1930 for the ratification of the Draft Convention concerning the creation of minimum wage-fixing machinery, adopted by the International Labour Conference at its Eleventh Session, held at Geneva from 30 May to 16 June 1928.

Journal officiel, 11 August 1925, p. 8824 : Decree of 25 July 1935 extending the scope of the Act to the silk and rayon weaving industry.

Idem, 4 December 1937 (*Ch. Déb. Parl.*), p. 2657 : adoption without discussion of the two sections and of the whole of a Bill for the extension, as regards the protection of home workers' wages, of the provisions of section 33 (*n*) of Book I of the Labour Code to the industries covered by the Decrees issued in application of section 33 (*n*) of the said Book I.

Recueils administratifs of the various departments : minimum hourly wage rates fixed by the departmental wages committees.

(b) *Collective Agreements*

Labour Code, Vol. I, Book I, Part II, Chap. IV *bis* : Collective Labour Agreements, sections 31 and 32.

Bulletin du Ministère du Travail, January-February-March 1937, esp. p. 28; Appendix II : *Les salaires et les lois sociales ; Conventions collectives.*

Idem, October-November-December 1937 : *Statistiques des conventions collectives; taux de salaires fixés par les conventions collectives.*

National Economic Council : *Les conventions collectives du travail;* report presented by Mr. Pierre Laroque, Member of the Council of State, and adopted by the National Economic Council at its session of 30 November 1934; Paris, 1934.

NATIONAL ECONOMIC COUNCIL : *Les problèmes posés par l'extension des conventions collectives de travail : Journal officiel* (appendices), 21 April 1937, pp. 255-261 (report presented by Mr. Yvan Martin, Master of Petitions in the Council of State, and conclusions adopted by the National Economic Council at its session of 15-16 March 1937).

Journal officiel, 19 June 1936 (*Sénat. Déb.*), pp. 530-537 : debate on collective agreements; amendments and comments submitted concerning, in particular, the inclusion in the sections relating to minimum wages of provisions regarding family allowances; adoption of Bill by 279 votes to 6.

Idem, 6-7 December 1937, p. 13296-13298 : Order of 26 September 1937 making compulsory the provisions of the collective labour agreement of 30 January 1937 concerning the relations between employers and workers in the manufacture of silk fabrics at Lyons; text of the agreement.

Orders making compulsory the provisions of collective agreements, dated 13 December 1937; metallurgical, engineering, and allied industries.

Idem, 12 January 1938, pp. 554-562 : Order of 30 December 1937 making compulsory the provisions of the collective labour agreement of 25 June 1936 concerning the metallurgical industries in the department of the Rhone.

Idem, 25 February 1938 (*Ch. Déb. parl.*), pp. 528-529 and 543-553 : Debate on a Bill concerning collective labour agreements : adoption, with some amendments, of the three sections and the whole of the Bill.

(c) *Conciliation and Arbitration*

Labour Code, Vol. I, Book IV, Part II : Conciliation and arbitration in collective disputes between employers and workers or salaried employees (sections 104-133).

Journal officiel, 1 January 1937, p. 127 : Act of 31 December 1936 concerning conciliation and arbitration procedure in collective labour disputes.

Idem, 22-23 March 1937, p. 3417 : Circular of 22 March 1937 concerning the application of conciliation and arbitration procedure in collective labour disputes (duties and working of departmental conciliation boards; arbitration methods).

Idem, 26 February 1938, p. 193 : Statements of Mr. Jacquier, Rapporteur in the Senate, on the Bill concerning conciliation and arbitration procedure.

Idem, 5 March 1938, pp. 2570-2571 : Act of 4 March 1938 concerning conciliation and arbitration procedure.

Idem, 21 April 1938, pp. 4605-4607 : Decree of 20 April 1938 concerning the organisation of conciliation and arbitration procedure.

Idem, 3 June 1938, pp. 6252-6254 : General Instructions, dated 1 June 1938, relating to the application of the Act of 4 March 1938 and the Public Administrative Regulations of 20 April 1938 concerning the settlement of labour disputes.

II. OTHER PUBLICATIONS

INTERNATIONAL LABOUR OFFICE, International Labour Conference : *Summary of Annual Reports under Article 22 of the Constitution of the International Labour Organisation.*

LAUTAUD, Camille : *Les conventions collectives de travail et la loi du 25 mars 1919.* Paris, 1925.

PICARD, Roger : " The Legal Minimum Wage of Women Home Workers in France ", in *International Labour Review*, Vol. XIV, No. 2, August 1926.

OUALID, William : " La législation sociale.... Les salaires minima ", *Revue d'économie politique*, May-June 1929, pp. 899-916.

MAGUILLAT, André : *Conventions collectives du travail et arbitrage. Leurs aspects pratiques. Principes.* Paris, 1936, p. 31.

Le Temps, 9 June 1936 : Text of the agreement concluded by the General Confederation of Labour and the General Confederation of French Production in the presence of the Prime Minister and the Minister of the Interior, providing for the immediate opening of negotiations for the determination by means of collective agreements of minimum wages, by region and by category of workers, and the readjustment of low wages.

PIC, Paul : *Traité élémentaire de législation industrielle. Les lois ouvrières.* Sixth edition, entirely revised in the light of the most recent legislation and legal decisions. Paris, 1930-1933; Supplement 1933; Supplement 1937.

MAURETTE, Fernand : " A Year of Experiment in France ", in *International Labour Review*, Vol. XXXVI, Nos. 1 and 2, July and August 1937.

MOCH, Jules : " Nouveau Code du Travail. La prévention et le règlement pacifique des conflits sociaux ". *Journal du Commerce*, 13 January 1938.

LAVERGNE, Bernard : " Le Code moderne du travail ", *Revue de Paris*, 1 March 1938.

AUGIER, Paul, Dr. Jur. : *Arbitrage et surarbitrage dans les conflits collectifs du travail.* Paris, 1938.

HAMBURGER, Louis : *Les procédures de conciliation et d'arbitrage en France. Coup d'œil historique et critique*, Geneva, 1938.

GREAT BRITAIN

Introduction

The first statutory application of the minimum-wage principle in Great Britain was effected by the Trade Boards Act of 1909, passed after more than twenty years of agitation for the suppression of " sweating ". This Act, providing for the setting up of Trade Boards in certain industries where wages were found to be abnormally low, originally covered the four trades of ready-made and wholesale bespoke tailoring, paper-box making, machine-made lace and net finishing, and chain making; provision was, however, made for an extension of the scope of this machinery to other industries by means of a Provisional Order subject to confirmation by Parliament, and in 1913 the Act was thus extended to the trades of sugar confectionery and food preserving, shirt making, hollow-ware making, tin-box making and linen and cotton embroidery [1]. About half a million workers were employed in these nine trades [2]. During the war period the wages of employees affected by Trade Boards were either governed or influenced by the Statutory Orders of the Ministry of Munitions; in consequence Trade Boards were thus, for practical purposes, temporarily superseded in certain trades. Towards the end of the war, however, two Committees recommended that the machinery of the Act should be used to temper the inevitable post-war disorganisation of industry and the accompanying fall of wages [3]. Partly for the purpose of bridging over the period

[1] Parliamentary confirmation of the application of the Act to the laundry trade was at this time refused.

[2] This total includes workers in Ireland. Originally both the 1909 and the 1918 Acts applied to Ireland as well as to Great Britain. When the Irish Free State and the Legislature of Northern Ireland were constituted, the Irish Free State continued to apply the Acts without modification, but in Northern Ireland certain changes were made by the Trade Boards Act (Northern Ireland), passed in 1923 (see page 115).

[3] Cf. A. G. B. Fisher: *Some Problems of Wages and their Regulation in Great Britain since 1918*, London, 1926, p. 181. The two Committees were the Women's Employment Committee of the Reconstruction Committee (*Report*, Cmd. 9239/1919) and the Whitley Committee (*Second Report*, Cd. 9002/1918).

before the wages of all ill-organised sections of the workers could be covered by Trade Boards or other wage-regulating machinery, the Wages (Temporary Regulation) Act, 1918, was passed. By this Act wages were stabilised for a short period at the rates payable at the date of the Armistice and became legally enforceable minima [1].

The amending Trade Boards Act came into operation on the 1 October 1918. Under this Act the Minister of Labour was empowered to extend the scope of the 1909 Act in industries where there was little or no organisation of labour, by means of Special Orders not requiring specific parliamentary sanction. During this period there was much talk of the establishment of a national minimum wage [2] and it is not surprising that the provisions of the new Act were promptly put into effect : in 1919 14 Boards were set up and by 31 December 1921 a total of 63 Boards had been brought into existence, applicable to trades employing about 3,000,000 workers [3].

By this time, however, the post-war depression had become a dominating factor in the economic life of the country; not only had the Draft Bill on Minimum Wages, laid before Parliament in August 1919, been abandoned, but the Government had announced that " it is desirable in the present circumstances to proceed with caution in the establishment of new Trade Boards " [4]. Work on a number of proposed Boards ceased and it was thought necessary to appoint a Committee to enquire into the " Working and Effects of the Trade Board Acts ". The Report issued by the Committee (known as the Cave Committee) expressed the view that the operations of some of the Boards had contributed to the volume of trade depression and unemployment [5] and recommended that the power of the Minister of Labour to apply the Acts to a trade be confined to cases where he was satisfied *(a)* that the rate of wages prevailing in the

[1] These stabilised wage rates were subsequently prolonged until 30 September 1920.

[2] Cf. *Report of Provisional Joint Committee presented to the Industrial Conference*, H.M.S.O., London, Cmd. 501/1920, pp. 8, 9. The principle " that minimum rates of wages should in all industries be made applicable by law " was accepted by the Prime Minister. See U.K. MINISTRY OF LABOUR : *Report on Conciliation and Arbitration*, 1919 (London, H.M.S.O., Cmd. 221/1920, p. 42).

[3] U.K. MINISTRY OF LABOUR : *Report of Committee of Enquiry into the Working and Effects of the Trade Board Acts* (London, H.M.S.O., Cmd. 1645/1922, pp. 10, 54, 55).

[4] U.K. *Parliamentary Debates*, Commons, 13 April 1921, 5th Series, Vol. 140, col. 1092.

[5] U.K. MINISTRY OF LABOUR : *Report of Committee of Enquiry into the Working and Effects of the Trade Board Acts* (London, H.M.S.O., Cmd. 1645/1922, p. 22).

trade or any branch of the trade is unduly low as compared with those in other employments; and *(b)* that no adequate machinery exists for the effective regulation of wages throughout the trade[1].

Although no legislation was passed incorporating the recommendations of the Cave Committee, the Minister of Labour announced that he intended to limit the scope of the Acts in accordance with the Committee's views, in so far as this could be done by administrative action. With regard to rates in trades already operating under the Acts, he promised to " bear in mind " the recommendation that rates for skilled workers should be set by agreement of the employers and employees and enforced only by civil action[2]. Only five new trades have been brought under the Acts since 1921 and one trade, that of grocery, has been withdrawn from their jurisdiction. 19 of the original Boards had been concerned only with Ireland, so that at the end of August 1938 the number of trades covered in Great Britain stood at 48. The number of workers covered at the end of 1935, when the number of Boards was 47, was estimated at 1,135,870, of whom about 73 per cent. were women[3].

Apart from the Trade Boards Acts, the most important application of the minimum wage principle has been in the sphere of agriculture. The Corn Production Act of 1917 guaranteed to farmers a minimum price for certain corn crops and provision was at the same time made for the constitution of an Agricultural Wages Board. Although the main purpose of the Act was to encourage production, its benefits were thus extended to the agricultural worker. Pending the fixing of minimum-wage rates by the Board, a universal minimum of 25s. a week was laid down to act as a temporary protection to the worker during the period of initial negotiation. This machinery, which applied to Scotland as well as to England, was abolished in October 1921, when the subsidies to farmers were withdrawn. The Repeal Act substituted a system of Conciliation Committees in place of the Agricultural Wages Board and the agreements of these Committees were only given legal sanction in cases where the Minister of Agriculture was requested to register the agreement. Only six of the 63 Committees which were set up

[1] *Ibid.*, p. 45.

[2] U.K. MINISTRY OF LABOUR : *Statement of the Government's Policy on the Administration of the Trade Boards Acts* (London, H.M.S.O., Cmd. 1645/1922).

[3] U.K. MINISTRY OF LABOUR : *Report for the Year 1935* (London, H.M.S.O., p. 127).

requested such registration to be made and, consequently, the great majority of agreements reached were not legally binding upon either side. It is generally agreed that this sytem of voluntary Conciliation Committees did not enjoy any marked degree of success [1].

In view of the rapid fall in agricultural wages, State regulation was again applied three years later. By the Agricultural Wages (Regulation) Act of 1924 the Minister of Agriculture was empowered to establish an Agricultural Wages Committee for each county in England and Wales and an Agricultural Wages Board for the whole country. Under this Act, unlike the system established under the Corn Production Act of 1917, wages are fixed locally — the central Board can only act if the local Committees fail in their duty — and no provision is made for agricultural workers in Scotland or Northern Ireland. The original intention, it may be noted, was that Scotland should be covered, as well as England and Wales, but the organised Scottish agricultural workers believed that they could obtain better terms by voluntary bargaining than could be secured under the Act, and at their express wish Scotland was excluded. By 1935, however, it had become clear both that the system of voluntary agreements afforded insufficient protection in time of depression, and that the Agricultural Wages (Regulation) Act had worked well in England and Wales; and the Scottish workers had come to favour the establishment of a similar system of regulation in Scotland. A Committee was accordingly appointed in 1936 to enquire into the condition of agricultural workers in Scotland. This Committee reported that the collapse of the system of voluntary agreements, which had worked fairly well until the depression of the early thirties, had resulted in a considerable fall in wages; they had, therefore, " come unhesitatingly to the conclusion that there is a direct and immediate need for the introduction by statute of some form of machinery for securing the proper regulation of wages and conditions of employment " [2]. The Committee therefore recommended that the application of the Agricultural Wages (Regulation) Act, 1924, should, subject to one or two alterations, be extended to Scotland. The Committee's recommen-

[1] Cf. U.K. MINISTRY OF AGRICULTURE AND FISHERIES : *Report of Proceedings under the Agricultural Wages (Regulation) Act, 1924, for the Two Years ending 30th September 1930* (London, H.M.S.O., 1931), p. 19.
G. WILLIAMS : *The State and the Standard of Living* (London, 1936), pp. 123, 124; E. M. BURNS : *Wages and the State* (London, 1926), pp. 96, 97.

[2] U.K., SCOTTISH OFFICE : *Report of the Committee on Farm Workers in Scotland* (London, H.M.S.O., Cmd. 5217/1936), p. 30.

dation, which had the support of the organised Scottish agricultural workers, was accepted by the Government and was put into effect by the Agricultural Wages (Regulation) (Scotland) Act, 1937.

Minimum-wage legislation has also been applied in the Coal Mines (Minimum Wage) Act of 1912, the Coal Mines (Minimum Wage) Act (1912) Amendment Act, 1934, the Cotton Manufacturing Industry (Temporary Provisions) Act, 1934, and the Road Haulage Wages Act, 1938. The purpose of the Coal Mines (Minimum Wage) Act was to protect the wages of miners working in abnormal places rather than to lay down a minimum for the industry as a whole; the Cotton Manufacturing Industry (Temporary Provisions) Act introduced machinery for giving legal effect to rates of wages agreed upon by the organisations of employers and workpeople in the industry; and the Road Haulage Wages Act, 1938, provided for the regulation of the wages of road haulage workers by Ministerial Orders based on Wages Board proposals or by decisions of joint bodies for the settlement of disputes or of the Industrial Court.

The provisions of those laws which are at present in force in the United Kingdom are summarised below. No account of State control of minimum wages would, however, be complete without some mention of the Fair Wages Clause which arose out of a Resolution in the House of Commons in 1909. By this Resolution Government contractors must, " under the penalty of a fine or otherwise, pay rates of wages, and observe hours of labour, not less favourable than those commonly recognised by employers and trade societies ... in the trade in the district where the work is carried out ". If the Clause is violated firms are struck off the list of those invited to tender by the Government. The Fair Wages Clause has also been adopted by Local Authorities.

An interesting development in connection with the payment of " fair wages " is to be found in the British Sugar (Subsidy) Act, 1925, which requires that the wages paid by employers in connection with the manufacture of sugar or molasses in respect of which a subsidy is payable shall not be less than would be payable under a Government contract containing the usual " fair wages " clause. Similar provisions relating to employers engaged in the transport of passengers or goods by road are contained in the Road and Rail Traffic Act, 1933.

The ratification by Great Britain of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), was registered on 14 June 1929.

Legislation at present in Force

The Trade Boards Acts, 1909 and 1918

Objects and Scope

The Act of 1909 was passed mainly with the object of providing for the regulation of rates of wages in a small number of trades in which the rate of wages prevailing was " exceptionally low as compared with that in other employments ". The Act of 1918 changed this criterion to that of the organisation of labour : the Minister of Labour was authorised to establish a Trade Board in any trade if he was " of opinion that no adequate machinery exists for the effective regulation of wages throughout the trade and that accordingly, having regard to the rates of wages prevailing in the trade or any part of the trade, it is expedient that the principal Act should apply to that trade ". If the Minister of Labour is of opinion that the conditions of employment in any trade to which the Acts have been applied have so altered as to render the application of the legislation to the trade no longer necessary, he may make an Order withdrawing that trade from the operation of the Acts.

Machinery and Method of Fixing Wages

The minimum-wage rates are fixed by trade boards set up by the Minister of Labour. The boards consist of members representing employers and members representing workers in equal numbers, with the addition of disinterested persons, described as " appointed " members.

When a trade board is constituted, the representative members are selected with a view to giving representation as far as possible to :

(a) each distinct section or branch of the trade;

(b) all the main classes and grades of employers and workers in the trade;

(c) the principal districts or centres in which the trade is carried on.

In trades in which a considerable proportion of homeworkers are engaged, such workers are to be represented on the boards. Women as well as men may be members of a trade board, and in the case of a trade board for a trade in which women are largely employed,

at least one of the appointed members is to be a woman. All trade board appointments are personal appointments, and are made by the Minister. No seats are allocated for the purpose of giving representation to associations of employers and of workers as such, but it is the practice to appoint candidates suggested by such associations as far as they satisfy the above-mentioned requirements; failing a sufficient number of suitable nominations from this source candidates are obtained by direct investigation. Where a substantial proportion of the workers in any trade is unorganised the method of direct choice is used to ensure that their interests may be properly represented. The number of appointed members acting on a trade board must be less than half the total number of representative members.

Boards vary in size roughly according to the number of interests in the trade requiring separate representation, the average membership being nearly forty; the number of appointed persons is, in practice, limited to three. A board is presided over by one of the appointed members and a quorum consists of one-third of the whole number of the representative members and at least one appointed member. Generally a trade board covers a given trade throughout Great Britain. The Minister of Labour may, however, set up district boards for any trade.

Subject to regulations made by the Minister of Labour, a trade board may establish, mainly for advisory purposes, district trade committees constituted on similar lines to the board and including representatives in equal numbers of local employers and local workers. A trade board may refer any matter to a district trade committee for its report and recommendations. It may also delegate to a district trade committee any powers and duties under the Acts other than those of fixing minimum rates of wages. No minimum-wage rate can be fixed for the area covered by a committee, nor varied, nor cancelled, unless the rate or change or cancellation has been recommended by the committee, or opportunity given to the committee to report to the trade board, and the trade board has considered the report. District Trade Committees to the number of 27 are at present in existence in two trades.

For time workers, each trade board fixes a general minimum time rate of wages. For piece workers, if express provision is not made, the general minimum time rate applies as a basis rate, that is, piece rates must be such as to enable an ordinary worker in the circumstances of the case to earn per unit of time not less than the minimum time rate. Boards may make express provision for

piece workers by fixing a piece-work basis time rate, to apply to piece workers as the basis rate in place of the general minimum time rate, or by fixing a general minimum piece rate. They may also fix a guaranteed time rate for the purpose of securing to piece workers a minimum rate of remuneration on a time basis[1]. Special rates may be fixed for different classes of workers in a trade; overtime rates, whether on a time or piece basis, may also be fixed. Minimum rates may be fixed so as to apply universally to a trade or to any special area. Notice of proposed rates must be given and a period of two months is allowed during which objections may be raised by employers or workers against any rate which it is proposed to fix. After the trade board has considered any objections raised, it notifies the Minister of Labour of its determination. Minimum rates become legally effective only upon confirmation by the Minister of Labour. The Minister is required, apart from special circumstances, either to make the Order confirming the rates fixed by a trade board within a month of notification or to refer them back for further consideration.

Every occupier of a factory or workshop or of any place used for giving out work to outworkers may be required to fix any notices relative to the operation of the Acts, including schedules of wage rates, in his factory or workshop or place used for giving out work to outworkers.

Rates below the Minimum for Ordinary Workers

If a trade board is satisfied that any worker, employed or desiring to be employed in any branch of a trade, is incapable, on account of an infirmity or physical injury, of earning the minimum time rate or guaranteed time rate which would be applicable to him, the board may grant to the worker a permit exempting him from employment at the minimum rate. Generally speaking, permits are granted only on medical evidence of incapacity and for a specified period, and the rate which may be paid is stipulated.

[1] If a trade board does not fix a general minimum piece rate, and if it is of opinion that the general minimum time rate does not form a proper basis for testing the adequacy of the piece rates fixed by employers in the trade, it may fix a piece-work basis time rate for this purpose. On the application of any employer who employs persons in respect of whom a general minimum time rate or a piece-work basis time rate is applicable, but in respect of whom no general minimum piece rate has been fixed, a trade board has to fix a special minimum piece rate to apply to such persons. In cases where neither a general minimum piece rate nor a special minimum piece rate has been fixed, an employer may employ persons at piece rates, but these must be such as to yield to an ordinary worker at least the same amount of money as the basis time rate.

A trade board may fix special minimum rates for persons who are learning a trade. In such cases the board may specify the conditions which it considers necessary for securing that effective instruction is given. Where a minimum rate is applicable to an apprentice or learner, it is not lawful for the employer to receive any payment in way of premium, except that payment may be made in pursuance of any instrument of apprenticeship not later than four weeks after the commencement of employment.

Enforcement

Employers are required to keep adequate records of the wages paid to their workers and failure to do this involves liability to fine. The Minister of Labour is charged with the enforcement of the Trade Boards Acts, and for this purpose has a special staff of inspectors, who have power to require the production of wages records by employers, and records of payments to outworkers by persons giving out work. Inspectors may examine these records and copy any material part and may also require any person giving out work or any outworker to give information as to the names and addresses of the persons to whom work is given out or from whom work is received, and as to the payment made for the work. They may also enter at all reasonable times any factory or workshop and any place used for giving out work to outworkers. Any person who hinders an inspector in the exercise of his duties, or who fails to produce necessary documents or information, is liable on summary conviction to a fine. Any person who supplies information which he knows to be false is liable on summary conviction to a fine or to imprisonment. Employers who pay wages lower than the minima fixed by a trade board are liable on summary conviction in respect of each offence to a fine[1] and may in addition be ordered to pay the balance of wages due to a worker. Where an offence has, in fact, been committed by an agent of the employer or by some other person, the agent or other person is liable on conviction to a fine; an employer who proves that he has used due diligence to ensure the observance of the law, and that the offence has been committed

[1] For the purpose of calculating the amount of the wages payable to a worker in respect of whom a minimum rate has been fixed, the worker is deemed to be employed during all the time he was present at the premises of the employer, unless the employer proves that he was so present without the employer's consent express or implied, or that he was present for some purpose unconnected with his work and other than waiting for work to be given him. Special provision is made allowing for cases of workers residing or taking meals on the premises of an employer.

Trade Board	December 1935		December 1937		
	Estimated total number of workers [1]	Percentage of female workers	Number of establishments on Trade Board Lists	Minimum time rates for lowest grades of experienced adult workers [2]	
				Male workers	Female workers
				Per hour s. d.	Per hour d.
Aerated waters (Eng. and Wales)	10,530	50	1,418	1 1	7
(Scotland)			184	$10\frac{1}{2}/11\frac{1}{2}$	$5\frac{1}{4}/6\frac{1}{4}$
Boot and floor polish.	1,790	69	140	1 $1\frac{1}{2}$	$7\frac{1}{2}$
Boot and shoe repairing	27,390	2	12,166	1 $2\frac{1}{4}$	$10\frac{1}{4}$
Brush and broom [3 6]	9,400	55	532	$11\frac{1}{4}$	$6\frac{1}{2}$
Button manufacturing [6]	4,990	77	157	1 $1\frac{1}{2}$	$6\frac{1}{2}$
Chain [3 4 6]	1,280	31	137	1 $2\frac{5}{8}$	$5\frac{77}{80}$
Coffin furniture and cerement making	1,240	67	50		
Coffin furniture section [3]				1 $1\frac{40}{47}$	$7\frac{1}{47}$
Cerement making section				—	$7\frac{3}{4}$
Corset	8,780	93	250	1 $1\frac{1}{2}$	$7\frac{1}{2}$
Cotton waste reclamation	2,980	60	171		
England and Wales.				$10\frac{1}{2}$	$6\frac{1}{4}$
Scotland				$10\frac{1}{2}$	6
Cutlery	13,630	45	869	11	$6\frac{1}{4}$
Dressmaking and women's light clothing [6] (England & Wales): Retail branch	120,320	98	10,877	1 1	7, $7\frac{1}{2}$, 8 [5]
Other branches				1 1	$7\frac{1}{2}$
(Scotland): Retail branch			934	1 0	7, $7\frac{1}{2}$ [5]
Other branches				1 0	$6\frac{1}{2}$
Drift net mending	1,690	100	156	—	6
Flax and hemp	14,160	79	93	$10\frac{41}{48}$	$6\frac{7}{24}$
Fur	12,280	54	1,582	1 1	$7\frac{1}{2}$
Fustian cutting	1,350	85	28	10	$5\frac{3}{4}$
General waste materials reclamation	16,590	49	1,998	$11\frac{1}{4}$	$6\frac{1}{2}$
Hair, bass and fibre [3]	1,530	54	61	$11\frac{1}{4}$	$6\frac{3}{4}$
Hat, cap and millinery (England and Wales and Scotland)	57,940	82			
England and Wales.			3,654	1 1	$7\frac{1}{2}$
Scotland			269	1 2	7, $7\frac{1}{2}$ [5]
Hollow-ware	7,580	49	101	1 $0\frac{1}{8}$	$7\frac{1}{8}$
Jute	26,780	74	93	$9\frac{37}{48}$	$6\frac{1}{4}$

Trade Board	December 1935		December 1937		
	Estimated total number of workers[1]	Percentage of female workers	Number of establishments on Trade Board Lists	Minimum time rates for lowest grades of experienced adult workers[2]	
				Male workers	Female workers
				Per hour s. d.	Per hour d.
Keg and drum	2,690	20	112	1 $0\frac{3}{4}$	$7\frac{1}{2}$
Lace finishing[4 6]	1,940	99	230	—	$6\frac{1}{4}$
Laundry	119,560	93	6,453	1 $2\frac{1}{2}$	$7\frac{1}{2}$, 8
Linen and cotton handkerchief, etc.	8,700	97	375	1 0	$6\frac{1}{2}$
Made-up textiles	3,840	63	414	$10\frac{3}{4}$	$6\frac{1}{4}$
Milk distributive : (England and Wales)	88,030	11	12,962	$10\frac{1}{2}$ d., 1/1	$6\frac{5}{8}$, $7\frac{1}{2}$, $8\frac{5}{8}$
(Scotland)		30	2,605	1/2[5] 1 $0\frac{1}{8}$	$6\frac{3}{4}$
Ostrich and fancy feather, etc.	2,740	94	142	1 0	7
Paper bag	8,590	85	402	1 $1\frac{1}{8}$	$7\frac{1}{4}$
Paper box[6]	40,370	86	1,216	1 $0\frac{1}{4}$	$7\frac{3}{8}$
Perambulator and invalid carriage[3]	4,500	40	87	$11\frac{1}{2}$	$6\frac{3}{4}$
Pin, hook and eye	2,050	82	35	1 0	7
Readymade and wholesale bespoke tailor.[6]	174,700	76	5,901	1 0	$7\frac{1}{2}$
Retail bespoke tailor.[6] : (England & Wales)	48,230	56	8,558	$11\frac{3}{4}$d. to 1/$4\frac{1}{2}$[5]	$7\frac{1}{2}$ to 10[5]
(Scotland)			1,194	11d. 1/1	7, $7\frac{1}{2}$
Rope, twine & net	17,980	73	405	10d., $10\frac{1}{2}$d.	$6\frac{1}{4}$, $6\frac{1}{2}$
Sack and bag	4,830	80	307	$10\frac{7}{8}$d.	$6\frac{1}{8}$
Shirtmaking[6]	42,390	93	1,019	1 2	$7\frac{1}{2}$
Stamped or pressed metal wares	9,030	78	355	1 0	7
Sugar confectionery and food preserving	85,560	81	1,619	1 1	$7\frac{1}{4}$
Tin box	18,680	86	203	1 1	$7\frac{1}{4}$
Tobacco	29,380	74	204	1 $3\frac{3}{8}$	$9\frac{5}{8}$
Toy manufacturing[6]	15,380	68	416	1 1	$7\frac{1}{4}$
Wholesale mantle and costume	64,470	73	4,138	1 0	$7\frac{1}{2}$

[1] These estimates, being based on the number of persons found in inspected establishments who were entitled to minimum rates, are mainly an indication of the relative size of the trades concerned; they exclude workers engaged in occupations for which minimum rates have not been fixed. — [2] The age at which the rates indicated apply varies, according to the trade, from 18 to 24 years, and the period of experience from 2 to 8 years. — [3] Rates of Boards rise or fall in accordance with a scale regulated by the cost-of-living figure in the *Ministry of Labour Gazette*. — [4] The minimum rates in the chain trade and lace finishing trade are not fixed by reference to sex. The rates shown under the column "Female workers" are those applicable to work usually performed by women and the rates shown under the column "Male workers" are those applicable to work usually performed by men. — [5] According to district. — [6] These trades provide employment for an appreciable number of homeworkers. — SOURCE : [7] Based on UNITED KINGDOM, MINISTRY OF LABOUR : *Report*, 1935 and 1937, and INTERNATIONAL LABOUR CONFERENCE, 17th Session, Geneva, 1933 : *Summary of Annual Reports under Article 408* (Geneva, International Labour Office, 1933), pp. 431-2.

by his agent or some other person without his knowledge, consent or connivance, is, in the event of conviction, exempt from fine. Employers receiving premiums from apprentices or learners otherwise than as indicated above are liable to a fine, and may be ordered to repay the amount of any premium thus received.

Application

As already stated, the total number of workers in the trades for which boards had been set up at the end of 1935 was estimated at 1,135,870. The table on pages 112-113[1] shows the estimated number of workers employed in each of these trades at that date, together with the number of establishments on trade board lists and the minimum time rates laid down for the lowest grade of adult male and female workers in each trade at 31 December 1937.

The rates quoted above apply in general to a 48-hour week; some Boards have, however, prescribed 47, 46 or 45 hours as the period to which they are applicable. There is no information upon the proportion of workers to whom the minimum time rates shown apply. The number of permits of exemption in force at the end of 1937 enabling infirm workers to be employed at rates of wages below the minimum fixed by the Boards for workers of the class concerned was 2,487.

Statistics are tabulated below, for the years 1928 to 1937, showing the number of inspections in relation to the number of establishments on trade board lists.

	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937
Number of establishments on Trade Board lists[1] (000's)..	107.1	101.3	95.3	92.9	92.1	91.9	92.9	91.3	89.1	85.3
Number of inspections (000's)	14.4	15.3	23.5	23.6	20.6	17.1	18.1	20.2	18.2	18.8
Number of workers whose wages were examined in establishments inspected (000's).	100.8	121.1	225.8	219.6	227.6	186.8	179.0	210.9	211.3	216.1

[1] At 31 December.
SOURCE: *Annual Reports of the Ministry of Labour.*

[1] See footnote 7 on p. 113.

The staff of inspectors, which numbered 58 in 1926 and grew to 72 in 1930 had by 1933 (the latest date for which information is available) been reduced to 62.

The next table gives statistics for the years 1928 to 1937 of the amounts of arrears of wages paid as a result of the measures taken to secure observance of the law and as a result of prosecutions. It will be seen that the number of seriously underpaid workers has been gradually diminishing.

	During year ended 31 December									
	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937
Arrears of wages										
Number of establishments concerned	2,479	2,336	2,857	2,784	2,493	2,117	2,168	2,295	2,117	2,229
Number of workers concerned	5,937	5,214	6,812	7,011	6,354	5,515	5,751	6,144	5,711	6,771
Number of underpaid workers in receipt of:										
Over 90 % of the minimum	3,411	3,246	3,787	3,572	3,543	2,789	3,092	3,891	3,510	4,124
76-90 % of the minimum	1,895	1,498	2,280	2,606	2,099	2,022	1,991	1,661	1,634	2,005
50-75 % of the minimum	543	449	696	780	642	625	638	555	493	553
Under 50 % of minimum	88	21	49	53	70	79	30	37	74	89
Total amount of arrears paid (£ 000's)	32.2	24.9	30.4	30.6	25.1	24.2	27.2	25.4	24.2	30.9
Number of prosecutions	42	98	79	33	35	24	40	28	19	17

SOURCE : *Annual Reports of the Ministry of Labour.*

In addition there are each year a number of other breaches of the Trade Boards Acts, such as the failure to post adequate notices or keep adequate records of wages paid or time worked. The numbers of offences reported in this respect in 1937 were 2,773, 2,286 and 6,935 respectively.

THE TRADE BOARDS ACT (NORTHERN IRELAND), 1923

Until 1923 the British Trade Boards Acts of 1909 and 1918 applied also to Northern Ireland. In October of that year the legislature of Northern Ireland passed the Trade Boards Act (Northern Ireland),

1923, to consolidate and amend the law relating to trade boards[1]. This Act, which received the Royal Assent in November 1923, differs somewhat from the legislation of 1909 and 1918, especially as regards its scope and the rate-fixing powers of the trade boards. It follows more closely the anti-sweating Act of 1909 than the amending Act of 1918.

Scope

The Act is administered by the Ministry of Labour for Northern Ireland, which, by Provisional Order, may apply the Act to any specified trade, " if the Ministry is satisfied that the rate of wages prevailing in any branch of the trade is unduly low as compared with the rates in other employments, and that, having regard to the degree of organisation in the trade, and to the other circumstances of the trade, it is expedient that the Act should apply to that trade ".

Machinery and Method of Fixing Wages

Trade boards constituted similarly to those in Great Britain may be set up. As regards rate-fixing powers, trade boards are required to fix general minimum time rates to apply respectively to men, women and juvenile workers. These rates are to be fixed with reference to the general body of ordinary time workers engaged on the least skilled operations in the trade. Trade boards are also required to fix piece-work basis time rates to apply respectively to men and women workers. These rates are to be fixed with reference to workers of ordinary skill and experience employed on the general classes of piece-work operations carried on in the trade; they shall be at least equivalent to the general minimum time rates fixed for men and women respectively in that trade. It is provided, however, that if a trade board reports to the Ministry that it is unnecessary or impracticable in any case to fix the above kinds of rates, the Ministry may, so far as respects that case, relieve the trade board of this duty.

In addition to the above, a trade board may, in its discretion, fix general minimum piece-rates for piece work done on the employer's premises, provided that the question whether the trade board shall fix such rates shall be determined by agreement of the members

[1] The Act was the outcome of the report of the Advisory Committee on Trade Boards appointed in November 1921 to advise the Minister of Labour as to the application of the Trade Boards Acts to Northern Ireland (Cmd. 7, Belfast, July 1922).

representing employers and those representing workers, the assent of not less than three-fourths of the members of either side present and voting on the question (if not less than one-half of the side are present) being binding on the side. The rates are to be such as are calculated to yield to workers of ordinary skill and experience in the trade the same amount as the piece-work basis time-rates. A trade board may fix general minimum rates of wages for piece work done elsewhere than on the employer's premises; these rates are not to be less than the piece-rates which would be paid for the work if done on the employer's premises. General minimum piece-rates fixed for any operations in a trade have effect as statutory minimum rates to the exclusion of the piece-work basis time-rate. A trade board may also fix general overtime rates.

The rate-fixing powers of a trade board in Northern Ireland thus differ from those of a trade board set up under the Acts in force in Great Britain mainly as follows :

(a) The fixing of piece-work basis time rates as a protection for piece workers becomes an obligation on a trade board, in addition to the duty of fixing general minimum time rates.

(b) The power to fix guaranteed time rates and the duty to fix special minimum piece rates for an individual firm are withdrawn.

(c) The power to fix general minimum piece rates for workers employed on the employers' premises is dependent on agreement between the representative sides of the board.

(d) Any general minimum piece rates fixed for work done elsewhere than on the employers' premises must not be less than the piece rates which would be paid for the work if done on the employers' premises.

Other principal differences between the legislation of Great Britain and Northern Ireland are that in Northern Ireland :

(a) the number of appointed members on each trade board has been limited to one, who will act as chairman;

(b) the Ministry is empowered to extend the jurisdiction of a trade board over two or more trades which are of an allied or kindred nature;

(c) the period within which a trade board may receive objections to fix, vary, or cancel rates has been reduced from two months to one month in the case of proposals to fix rates, and to fourteen days in the case of proposals to cancel or vary rates.

Trade Board	Estimated total number of workers	Percentage of female workers	Number of employers on trade board lists	Minimum time rates for lowest grades of adult workers[1]	
				Male workers	Female workers
				Per hour	Per hour d.
Aerated waters.....	450	23	46	11d.	6
Boot and shoe repairing.....	750	1	451	1/1¼d. & 1/2¼d.	9¼ and 9⅞
Brush and broom....	100	16	6	11½d.	7
Dressmaking[2]:					
factory.....	4,500	96	78	11d.	6
retail.....	900	100	270	—	5 to 5½, 7
General waste material reclamation.....	300	64	39	10 34/37d.	5 5/47
Hat, cap and millinery:					
factory.....	300	99	85	1/0½d.	7
retail.....				—	6¼ and 6¾
Laundry.....	1,100	99	40	—	6½[3]
Linen & cotton embroidery[2].....	2,000	100	270	—	2½ to 4½[4]
Linen & cotton handkerchief, etc.....	20,000	95	235	7¼, 8, 9, 10d.[5]	6
				9 9/16 to 11 11/16	6 5/16 to 7¾
Milk distributive.....	500	3	443	1/0¾d.	8 9/16
Paper box.....	900	89	35	8 to 9¾d.	6½
Ready-made and wholesale bespoke tailoring.....	3,300	93	65	11¼d.	6¼
				10 15/16 to 11 1/2	5⅛ to 5½
Retail bespoke[2] tailoring.....	1,800	31	429	1/0d.	6¼
Rope, twine and net.	2,000	72	14	7½ and 8d.	4⅛ and 4⅝
Shirt making[2].....	8,500	94	85	1/2d.	6½
Sugar confectionery and food preserving.	400	74	24	11d.	6¼
Tobacco.....	1,800	72	6	1/1 37/47d.	8 32/47
Wholesale mantle and costume.....	200	84	23	10½d.	6
Total.....	49,800	85	2,644	—	—

[1] The age at which adult rates become payable varies in different trades from 19 to 22 years.

[2] These trades provide employment for an appreciable number of home workers.

[3] After six months' experience.

[4] According to class of work.

[5] With two years' experience in preceding five years.

SOURCE: Communications of the United Kingdom Government to the International Labour Office.

The period within which the Ministry must make a confirming Order or refer the rates in question to the Board for further consideration has been reduced from one month to fourteen days. The effect of these provisions is that the minimum time for the fixing of a rate or for the varying or cancelling of a rate is about six weeks in Northern Ireland, compared with about fourteen weeks in each case in Great Britain.

As regards permits of exemption, special rates for learners, inspection and enforcement, the procedure obtaining in Northern Ireland is similar to that of Great Britain.

Application

The number of trade boards established in Northern Ireland at 30 September 1937, was 18, covering some 50,000 workers. The table on the opposite page shows the estimated number of workers employed in each of these trades, the number of employers on trade board lists and the minimum time rates laid down for the lowest grade of adult male and female workers in each trade as at 30 September 1937. The number of hours to which these time rates are applicable is, as in the case of Great Britain, usually 48. The following summary indicates briefly the position with regard to compliance in the seven years 1931 to 1937.

	During year ended 30 September						
	1931[1]	1932	1933	1934	1935	1936	1937
Number of workers whose wages were examined	13,821	10,618	11,058	17,337	10,757	12,951	17,158
Amount of arrears secured	£634	£570	£617	£889	£1,075	£584	£775
Number of criminal prosecutions	5	10	9	3	1	3	2

[1] 15 months ended 30 September.
SOURCE: Communications of the United Kingdom Government to the International Labour Office.

THE COAL MINES (MINIMUM WAGE) ACT, 1912

Scope and Purpose

The Coal Mines (Minimum Wage) Act of 1912 applies to underground workers (male) employed in coal mines (including mines of

stratified iron stone), subject to the exclusion of a few workers. It provides for the fixing of a guaranteed minimum time wage, the purpose of which is to provide a safeguard for piece workers operating in abnormal places where the extraction of coal is difficult.

Machinery and Method of Fixing Wages

Minimum rates are fixed in each district by a body of persons recognised by the Board of Trade as the joint district board for that district. The Board of Trade may recognise any body of persons which in its opinion fairly and adequately represents the workmen in the coal mines of a district and the employers of those workmen, and the chairman of which is an independent person appointed by agreement by the persons representing the workers and employers respectively on the body or, in default of agreement, by the Board of Trade. The Board of Trade, as a condition of recognising any body as a joint district board for the purposes of the Act, may require the adoption of a rule for securing equality of voting power between the members representing employers and those representing workers, and for giving the chairman a casting vote in case of difference between the parties.

In settling any minimum rate, boards are to have regard to the average daily rate of wages paid to workmen of the class for which the minimum rate is to be fixed. A board may fix general minimum rates applicable throughout the district, or special minimum rates, either higher or lower than the general rate, for any group or class of mines in which there are special circumstances. Any agreement for the payment of wages below the minima fixed is void. Workers who do not fulfil the conditions laid down by a board regarding regularity and efficiency of work forfeit their right to the minimum rates, except in cases where failure to comply with the conditions was due to causes over which they had no control.

Rates below the Minimum for Ordinary Workers

The joint district boards may exclude from the right to wages at the minimum rate workmen who are handicapped on account of age or infirmity, including partial disablement by illness or accident. Boards may fix special minima for juvenile workers.

Enforcement

No special provision is made for enforcement. The minimum rates constitute an implied term of every contract for employment,

and observance is ensured according to the law governing such contracts.

Application

In the first years of their operation the joint district boards were effective in raising the wages of a considerable number of workmen, chiefly unskilled time workers and also individual piece workers. During recent years the minimum rates fixed by collective agreements have in practice been higher in most districts than those fixed in accordance with the Acts.

The Agricultural Wages (Regulation) Act, 1924

Scope

Agriculture is defined by the 1924 Act as including dairy farming, the use of land as grazing, meadow or pasture land, or orchard or osier land, or woodland, or for market gardens or nursery grounds.

The Act applies to England and Wales only.

Machinery and Method of Fixing Wages

The Minister of Agriculture and Fisheries is required to establish an agricultural wages committee for each county, or group of counties, in England and Wales. The committees consist of representatives of employers and of workers in equal numbers, together with two impartial members appointed by the Minister and a chairman appointed by the committee. There is also a Central Agricultural Wages Board which consists of representatives of employers and workers in equal numbers, and in addition a number of impartial members appointed by the Minister, not exceeding one-quarter of the total membership of the Board.

The wages committees are required to fix minimum rates for time work, and may also fix minimum piece rates[1]; special rates for overtime may also be fixed. Committees are, so far as practicable, to secure for able-bodied men wages " adequate to promote efficiency, and to enable a man in an ordinary case to maintain himself and his family in accordance with such standard of comfort as may be reasonable in relation to the nature of his occupation ";

[1] Committees may be requested by the Minister to determine in cash the value of a cottage, board and lodging, and of other payments in kind; where workers receive such payment the value may be deducted from the minimum rates.

they are also, as far as is reasonably practicable, to secure a weekly half-holiday for workers. The duty of fixing minimum rates of wages rests with the Wages Committees and, except where a Committee fails to carry out that duty, the function of the Central Board is confined to making Orders giving effect to the decisions of the Committees, the Board having no power to amend or reject a decision which is in proper legal form. The Minister of Agriculture and Fisheries has power to direct a Committee to reconsider any minimum rate fixed by it. Provision is made for the Board to fix or vary rates in cases where a committee has failed to fix or vary a rate within a given period. Rates fixed by a committee may apply universally in its area, or may be limited to special classes of workers or to special districts. Provision is made for the submission to Parliament of an annual report of the proceedings under the Act.

Rates below the Minimum for Ordinary Workers

A committee may grant to any worker, incapable as a result of " physical injury or mental deficiency, or any infirmity due to age or to any other cause " of earning the minimum rate applicable to him, a permit exempting him from the minimum-wage provisions of the Act. The Committee may specify the rate of wages at which such a worker may be employed.

Enforcement

The Act does not compel employers to keep records of wages paid to their workers, but if any such records are kept they must be submitted when required to the examination of inspectors appointed to ensure that the Act is observed. The onus of proof that wages have been paid at not less than the prescribed minimum rates rests on the employers. Failure to pay the rates in force involves liability to a fine. Arrears of wages due to any worker may be recovered for him either directly by an inspector, or by civil proceedings, or by prosecution. In case of prosecution, the Court, whether or not it enters a conviction, must order payment of any arrears which it finds to be due for the previous six months; and, if a conviction is recorded, payment of arrears during the last eighteen months may be ordered. Agents of employers, as well as employers, are liable to prosecution for contraventions of the Act.

Application

Regulations issued in September 1924 for the application of the Act provided that the Central Wages Board should consist of eight

members representing employers, eight members representing workers, and five impartial members. They also provided for the setting up of 47 county agricultural wages committees without, however, specifying the number of representative members. In 1937 the 47 committees consisted of 315 representatives of employers and an equal number of representatives of workers, together with 83 impartial members and 47 chairmen.

Minimum rates of wages for adult male workers at the end of March 1938 averaged 34s. $3\frac{1}{2}$d. a week[1]; hours of work in agriculture are, however, often longer than those for which the minimum wage is payable, with the result that earnings are usually somewhat greater[2]. This and certain other aspects of experience under the Act are dealt with at greater length in the final section of the present monograph.

The number of permits of exemption in force on 30 September 1937, enabling certain categories of workers to be employed at rates of wages below the minimum fixed by the committees, was 8,664; of these, 2,439 were granted on account of age to persons of 65 years or over; of permits specifying the weekly rate at which the person was to be employed, 2,489 prescribed rates of 10s. or more below the weekly minimum for ordinary workers.

In the course of their enforcement work inspectors on the staff of the Ministry of Agriculture and Fisheries visit particular farms, either in order to investigate complaints received or in order to test the observance of the Act. Statistics are tabulated below for the years 1928 to 1937, showing the number of inspections, the amount of wages recovered and the number of prosecutions under section 7 (1) of the Act. The total amount of wages recovered since the inception of the Act amounts to £163,823. Comparable statistics of the numbers of workers whose wages were investigated by inspectors are not available for all of the years covered by the table, but it may be noted that in the years ended 30 September 1935, 1936 and 1937 these numbers were 9,674, 11,028 and 9,949, respectively.

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[1] U.K. MINISTRY OF AGRICULTURE AND FISHERIES: *Report of Proceedings under the Agricultural Wages (Regulation) Act, 1924, for the Year ended 30th September, 1937* (London, 1938), p. 3.

[2] Sample enquiries made by the Ministry of Agriculture at various times have indicated that average additional earnings above the minimum were about 2s. per week. On this point see also R. J. THOMPSON: "The Agricultural Labour Bill in England and Wales" in *Journal of the Royal Statistical Society*, Vol. C, part IV (1937), pp. 616 *et seq.*

GREAT BRITAIN : ENFORCEMENT ACTIVITIES UNDER THE AGRICULTURAL WAGES (REGULATION) ACT, 1924.

Year ended 30 September	Number of farms visited in test inspections	Number of farms visited in inspections following complaints	Arrears of wages recovered		Number of prosecutions
			As a result of test inspections	As a result of specific complaints	
			£	£	
1928.....	893	1,653	1,539	10,373	90
1929.....	664	1,714	1,425	11,001	97
1930.....	2,325	2,198	3,950	14,589	176
1931.....	2,218	2,005	5,713	10,897	135
1932.....	1,255	1,878	2,091	9,933	63
1933.....	443	2,124	631	10,015	66
1934.....	390	2,328	904	11,596	63
1935.....	682	2,269	1,241	15,594	79
1936.....	1,053	2,240	1,707	14,020	93
1937.....	1,105	2,148	1,971	14,215	106

SOURCE : MINISTRY OF AGRICULTURE AND FISHERIES : *Report of Proceedings under the Agricultural Wages (Regulation) Act, 1924* (annual).

The number of agricultural workers on holdings of one acre or over in England and Wales at 4 June 1938 was 592,300, of whom 429,000 were male workers of 21 years and over, 96,400 were males under 21, and 66,900 were women and girls [1].

THE AGRICULTURAL WAGES (REGULATION) (SCOTLAND) ACT, 1937

The system of wage regulation provided for Scotland under this Act is similar to that outlined above which is provided for England and Wales under the 1924 Act. The department responsible for the system in Scotland is the Department of Agriculture for Scotland and the machinery of regulation consists of a central Agricultural Wages Board and district Agricultural Wages Committees.

The Board and the Committees were duly constituted in 1937, but details of their operations were not available at the time when the present study was prepared.

The number of agricultural workers on holdings of one acre or over in Scotland at 4 June 1938 was 105,000, of whom 64,500 were male workers of 21 years and over, 20,400 were males under 21, and 20,100 were women and girls [1].

[1] *Ministry of Labour Gazette*, September 1938, p. 343. The figures are subject to revision.

The Cotton Manufacturing Industry (Temporary Provisions) Act, 1934

Scope and Purpose

The purpose of the Act is to make temporary provision for enabling statutory effect to be given to rates of wages agreed between organisations representative of the employers controlling the majority of the looms in the industry and of the majority of the persons employed. The industry is defined as the manufacture, in the areas specified in a Schedule to the Act, of woven fabrics from the following yarns (with or without an admixture of not more than 5 per cent. of other fibres) : cotton yarn, rayon yarn or mixed cotton or rayon yarn. The necessity for the legal enactment of minimum wages was occasioned by complaints that certain employers were not complying with the provisions of the collective agreement adopted by the industry in 1932. A vicious circle of wage cutting and price cutting had been set up and the industry was faced with the possible collapse of the whole principle of collective bargaining [1]. The Act was intended " to restore the effectiveness of the voluntary system and not to replace it and it is regarded as an experiment in a field which has been the subject of much discussion " [2].

Machinery and Method of Fixing Wages

The Act enables an organisation of employers and an organisation of employed persons in the cotton manufacturing industry to make a joint application to the Minister of Labour for the making of an order with respect to any agreement made between the organisations as to the rates of wages to be paid to any persons employed in the industry. Public notice must be given of the fact that an application is being made, and a period of time specified during which objections may be sent to the Minister. On receiving such an application the Minister must appoint a Board to consider the application and report to him thereon, unless he is satisfied that the organisations do not respectively represent the majority of the employers and the majority of the employed persons in the industry of the class or classes that would be affected by such an order.

The Board consists of a chairman and two other members ap-

[1] U. K. Ministry of Labour : *Ministry of Labour Gazette*, July 1935, p. 246.
[2] U. K. Ministry of Labour : *Report for the Year 1934*, (Cmd. 4861/1935), p. 75.

pointed by the Minister, none of whom is to be connected with the industry; and each of the organisations which were parties to the application is entitled to appoint six of its members as assessors. The first duty of the Board is to enquire whether the organisations which are parties to the agreement were, at the date of the agreement, representative respectively of the majority of employers and of the class or classes of employed persons affected. If satisfied on that point it enquires further whether it is expedient that an order be made and reports to the Minister as soon as possible; its report is not, however, to contain a recommendation that such an order be made unless the members of the Board are unanimous on the point.

On receipt of such a unanimous recommendation the Minister of Labour may make an order setting out the rates of wages thereby brought into force, and any provisions of the agreement as to the conditions for earning or the method of calculating such wages; the order may also contain further provisions, if necessary, to make plain who are the employers and the classes of employed persons affected by the order. The terms of the agreement may not however be modified by any such order. The rates so fixed become part of the terms of contract of every employed person in the industry, and an employer paying less than the rates applicable under the order is liable to a monetary penalty. Provision is made for the maintenance by employers of the records necessary to show compliance with the order.

Revocation of a wage-fixing order is to be made at the request of either of the organisations who made the original joint application. The Act was originally to remain in force until 31 December 1937, but the sections relating to applications for and the making of orders were renewed by the Expiring Laws Continuance Act, 1937.

Enforcement

As in the case of the Coal Mines (Minimum Wage) Act, 1912, no special provision is made for enforcement.

Application

An Order bringing into force agreed rates of wages for weavers was made on 27 June 1935; a further Order made on 12 April 1937 gave statutory effect to a later agreement between the employers' and workers' associations for an increase in weavers' rates of wages[1].

[1] U. K. MINISTRY OF LABOUR : *Report for the Year 1937*, p. 66.

The Road Haulage Wages Act, 1938

Scope and Purpose

The main purpose of the Act is the regulation of the remuneration of workers employed in connection with goods vehicles for which public, limited, or private carriers' licences are required under the Road and Rail Traffic Act, 1933. The workers covered by the Act and described as " road haulage workers " are workers employed on all or any of the following work :

(i) driving or assisting in the driving or control of a goods vehicle;
(ii) collecting or loading goods to be carried in or on the vehicle;
(iii) attending to goods while so carried;
(iv) unloading or delivering goods after being so carried;
(v) acting as attendant to the vehicle;

and required to travel on or accompany the vehicle for the purpose of doing any such work. Workers whose remuneration is fixed by or under any other enactment, and road haulage workers employed by railway companies whose wages and conditions are determined by machinery established by agreement between the companies and the railway trade unions are, however, excluded from the Act.

The Act affects directly some 250,000 holders of licences and 500,000 vehicles driven and attended by between 500,000 and 600,000 workers [1].

The Act does not apply to Northern Ireland.

Machinery and Method of Fixing Wages

Two types of machinery are provided. The first, covering workers employed in connection with vehicles having " A " licences (public carriers' licences) or " B " licences (limited carriers' licences) resembles the machinery of the Trade Boards and consists of a Central Wages Board for Great Britain, a Scottish Area Board, and Area Boards in England and Wales for each of the ten existing Traffic Areas.

The Central Board is to include not less than six nor more than nine representatives of employers and an equal number of representatives of workers. These members are to be appointed by the Minister of Labour after consultation with any organisations appearing to him to represent such employers and workers respec-

[1] The United Kingdom : *Parliamentary Debates*, House of Commons, Vol. 335, column 1611. Statement by the Minister of Labour.

tively. There are also a further 24 representative members (comprising one member from each side of each Area Board in England and Wales and two members from each side of the Scottish Area Board) appointed by the Minister after consultation with the Area Boards. Each of these 24 members is to have a deputy, similarly appointed, to act for him in case of his unavoidable absence. In addition there are to be not less than three nor more than five independent members, of whom one is to be the Chairman and another the Deputy Chairman of the Board. The independent members are to be persons who, in the opinion of the Minister, are not connected with the transport of goods.

The Area Boards are to be composed of equal numbers of representatives of the employers and workers in the respective Areas, appointed by the Minister after consultation with organisations appearing to him to represent such employers and workers respectively.

It is the duty of the Central Board to submit to the Minister of Labour proposals for fixing the remuneration (including holiday remuneration) to be paid to road haulage workers in respect of road haulage work performed in connection with A or B licensed vehicles. Before submitting its proposals, the Central Board is required to transmit to every Area Board concerned a draft of the proposals, and the Area Board is required to consider the proposals and report on them to the Central Board within 28 days. After considering the reports of Area Boards the Central Board may amend the proposals. Notice of the proposals must be given by the Central Board to all persons likely to be affected thereby, and the Board must consider any written objections which may be made within a certain period. The Board must send copies of objections to the Area Boards concerned for consideration and report, and can, after considering any such reports, amend their proposals as published. If the Board considers that any amendments it has made effect important alterations in the proposals, it must give the Area Boards an opportunity to make representations upon them.

After the foregoing procedure has been completed, the Central Board may submit the proposals to the Minister, who is required to make an Order giving effect to the proposals, unless he considers it necessary to refer the proposals back to the Board for reconsideration. The Scottish Board has a further power of making recommendations to the Central Board.

The effect of a Minister's Order is to fix the proposed remunertaion, which then becomes " statutory remuneration " and is

legally enforceable as between all road haulage workers, for whom the remuneration is fixed, and their employers. In addition, both the Central and the Area Boards have power to make arrangements for settling trade disputes between A and B licence holders and their road haulage workers and also to promote the voluntary organisation of employers and workers.

The second type of machinery covers road haulage workers employed in connection with vehicles having " C " licences (private carriers' licences). Any such worker or his trade union or a trade union representing a substantial number of road haulage workers is entitled to make a complaint to the Minister that his remuneration is unfair. If such an application is not frivolous or vexatious and if it is not withdrawn after the Minister has made representations to the employer, the Minister is required to refer the complaint to the Industrial Court for settlement. If, however, there is in existence joint machinery of a certain kind for settling disputes, any complaint concerning the employer whose organisation is a party to the joint machinery must be referred to that machinery for settlement and can only be referred to the Industrial Court at the request of both sides.

The Act provides that remuneration cannot be deemed to be unfair if it is :

(i) equivalent to the remuneration payable in respect of corresponding work in connection with an A or B licensed vehicle and fixed by a Minister's Order made under Part I of the Act; or

(ii) in accordance with an agreement in force between a trade union and the particular employer concerned, or an employers' organisation of which he is a member; or

(iii) equivalent to the remuneration payable in respect of corresponding work by employers in the same trade or industry in the same district in pursuance of an agreement between a trade union and an organisation of employers which represents a substantial number of employers in the trade or industry; or

(iv) equivalent to the remuneration payable in respect of corresponding work by an employer in the same trade or industry in the same district in pursuance of a decision given by the Industrial Court; or

(v) equivalent to the remuneration payable in respect of corresponding work by similar employers in the same trade or industry in the same district in pursuance of a decision of a Joint Industrial Council, Conciliation Board, or similar body.

If in any case referred to it under Part II of the Act, the Industrial Court finds that the remuneration paid was unfair, it is the duty of the Court to fix the remuneration to be paid. Remuneration so

fixed by the Court is to be known as " statutory remuneration " and such statutory remuneration comes into force as between the worker by whom or on whose behalf a reference to the Court was made and his employer. It also applies to all other workers employed by that employer on the same work. Any such worker in respect of whom statutory remuneration is in force, or his trade union or his employer or his employer's organisation, may apply for a review of the remuneration at intervals of not less than three months.

Enforcement

The provisions in the Act relating to the enforcement of the minimum wages fixed for road haulage workers are similar to those, outlined above, for the enforcement of Trade Board wage determinations. Any person who contravenes the provisions of the Act by paying less than the minimum rates of wages fixed is liable to a fine of £20 for each offence, in addition to being required to pay to the worker the difference between the amount already paid and the minimum rate. Employers are required to keep records and the Minister of Labour is empowered to appoint officers to examine such records and generally to see that the provisions of the Act are carried out.

Some Problems and Results of Wage-Fixing

Principles Adopted

It will be seen from this brief account of minimum wage-fixing machinery in Great Britain that in no case has there been any clear statutory definition of the principles to be followed in determining the wages to be paid to ordinary workers. The Trade Boards Acts of 1909 and 1918 gave no guidance and imposed no restriction in this connection and the Agricultural Wages (Regulation) Acts of 1924 and 1937 merely say : " In fixing minimum rates a committee shall, so far as practicable, secure for able-bodied men such wages as in the opinion of the committee are adequate to promote efficiency and to enable a man in an ordinary case to maintain himself and his family in accordance with such standard of comfort as may be reasonable in relation to the nature of his occupation "[1].

[1] The Agricultural Wages (Regulation), Act, 1924, section 2 (4), and the Agricultural Wages (Regulation) (Scotland) Act, 1937, section 2 (7).

In practice the authorities responsible for fixing wages have taken into account a variety of considerations. One writer with long experience as chairman and member of Trade Boards has described their methods as follows :

" There are broadly two considerations, which, subject to an estimate of the economic position and prospects of the trade, enter into the determination of wage rates. The basic consideration is the necessity of securing that every normal worker employed in the trade shall be paid a rate which, in a period of full employment, will yield a wage which avoids the reproach of " sweating " — in other words, a wage on which at least maintenance is possible. There are therefore minimal rates below which the wage ought not to be allowed to fall. The second point is that workers should be paid at rates more or less equivalent to the rates offered to workers in comparable occupations. But both these considerations operate within the general framework of the Board's estimate of the rate which the market conditions of the trade permit it to pay.

" There is little dispute about the relevance of these three criteria; but there may be a good deal of discussion as to the relative weight of the first and third. A rate fixed in accordance with the first criterion must plainly be related to the general standard and cost of living : and it is admitted that a substantial movement of the index figure of the cost of living constitutes a *prima-facie* case for a change of rates. If the change has been downwards, the workers may resist a corresponding reduction of rates on the grounds (*a*) that if costs are falling standards are rising, and (*b*) that the industry can afford to maintain the existing rate. On the other hand, when the cost of living has risen, the employers may resist an upward revision of wage rates on the ground that the industry cannot maintain its market if costs are raised by an increase of wages, and that therefore the increase in wages means either a reduction of business or an increased resort to the economies of machine production. In either case, the net effect is a shrinkage in the employment of wage earners, and a worsening rather than an improvement of their position.

" None of the contentions is without substance; but the precise weight of each of them is not susceptible of exact estimation. The decision has to be taken in the light of the best judgment which can be framed as to their relative importance. In the end, the only reasonable basis is that the nearer the Board can come to agreement the more likely is the decision to be right; and a sensible Board works towards the production of the largest measure of agreement both as to fact and as to inference." [1]

The Cave Committee, after a study of the Trade Boards' practice, pointed out certain difficulties to which the lack of any statutory or other recognised wage principles had given rise. " Some Boards ", the Committee reported, " have had regard only to the cost of living, while others have taken into account the value of the work done and the charge which the trade can bear. In one case we were

[1] Sir Hector HETHERINGTON : " The Working of the British Trade Board System " in *International Labour Review*, Vol. XXXVIII, No. 4, October 1938, pp. 478-479.

informed that the minimum was taken to be the lowest wage payable to the least skilled worker in the cheapest living area covered by the rate; while in another it was defined as a wage sufficient to provide a young woman of eighteen with means sufficient to enable her to maintain herself without assistance and to enable a man of twenty-one to contemplate marriage. Partly as a consequence of this diversity of interpretation, wide differences are found in the rates fixed "[1]. The Committee itself, however, was unable to suggest any very clear criterion : the Trade Board system should, it recommended, be directed to " giving protection to the workers in each trade by securing to them at least a wage which approximates to the subsistence level in the place in which they live and which the trade can bear "[2].

Effects on Wages

The lack of statutory guidance and the conflicting nature of the considerations which Trade Boards have had to take into account have naturally been reflected in many of the arguments used by their critics. One of the principal charges made against the Trade Boards, as well as against the Agricultural Wages Committees, is that minimum wages have at times been fixed at a level higher than the industry can bear[3]; while workers' representatives have argued that the rates are nearly all too low to ensure a minimum " living wage "[4].

Since there is no single underlying principle or consistent body of principles upon which the Boards and Committees have acted in fixing rates for either men or women, the difficult problem of assessing the economic and social effects of the minimum wage-fixing machinery is made even more difficult. The factors making for specially low wages in an industry are, in any case, more often than not bound up with the questions of cyclical depression or obsolescence; and it is therefore almost impossible to isolate the influence of comparatively rigid minimum wage rates on the profit-

[1] U. K. Ministry of Labour : *Report on the Working and Effects of the Trade Board Acts* (London, Cmd. 1645/1922), pp. 25-26.

[2] *Ibid.*, p. 28. On this point see H. Clay : *The Problem of Industrial Relations and Other Lectures* (London, Macmillan, 1929), pp. 232-234.

[3] U. K. Ministry of Labour : *Report on the Working and Effects of the Trade Board Acts*, p. 13. Cf. U. K. Ministry of Agriculture and Fisheries : *Report of Proceedings under the Agricultural Wages (Regulation) Act, 1924, for the Two Years ending 30 September 1930* (London, 1931), p. 29.

[4] *Ibid.*, p. 29. Cf. J. Hallsworth : *The Legal Minimum* (London, 1925), p. 62.

ability of a hitherto low-wage industry. Again, the purpose of most of the minimum-wage legislation in Great Britain has been to abolish " sweating " and although there is general agreement that this aim has been substantially achieved in the trades covered, the lack of any precise definition of what constitutes " sweating " leaves room for difference of opinion in particular cases. For all these reasons there is a large element of personal judgment and a margin of uncertainty in all conclusions as to the results of such legislation.

Various studies of the results achieved and of the social and economic problems involved have, however, been made[1] and the consensus of opinion seems to be that the worst forms of " sweating " have been effectively abolished, that the rates fixed are in most cases somewhere between Mr. Rowntree's " Poverty Line " and " Human Needs Standard " figures[2] and that, as regards the economic difficulties of industries, the minimum-wage rates have not been a decisive factor. Certain of the points raised may be briefly noted.

The first Trade Boards to undertake the task of fixing minimum rates adopted rates that were remarkably low, considering the fact that they meant an appreciable improvement in remuneration to a considerable number of workers. The minimum rates in effect in 1913 were[3] :

Trade	Rate per hour	
	Females	Males
	d.	d.
Chair-making	$2\frac{1}{4}$	5 — 7
Lace finishing	$2\frac{3}{4}$	—
Box-making : Great Britain	3	6
,, ,, Ireland	$2\frac{3}{4}$	6
Tailoring : Great Britain	$3\frac{1}{4}$	6

An observer of the work of these early Boards says that " what actually happens is that the Board crawls to an agreement along a path of which the milestones are $\frac{1}{16}$d. and that its ultimate decision represents a compromise between the employers' instinct of what

[1] See, in particular, those listed on pp. 142-143 below.

[2] Cf. B. S. ROWNTREE : *Poverty : A Study of Town Life* (London, 1901), Ch. IV, and *The Human Needs of Labour* (London, 1918; second edition, 1937).

[3] U. K. BOARD OF TRADE : *Memorandum on the Working of the Trade Boards Act* (London, 1913), p. 6.

the trade can bear and the desire of the workers and appointed members to establish a living wage "[1]. The general effect of the fixation of minimum rates in these cases was to raise the earnings of women, although rates for men were in every case slightly below the average amount being earned before the Trade Board rates became effective, but not below the average for unskilled male workers[2]. With the increase in prices during and after the war minimum rates naturally rose considerably. The monthly average of Trade Board rates reached its peak in 1921, when the weekly average of the rates for the lowest grade of experienced adult male workers touched 60s. and that for female workers touched 35s.[3] When the post-war depression became intense, the average of Trade Board rates maintained a remarkably steady level, declining less than wages in general or than the cost of living. During the depression of the thirties 23 of the 47 Boards reduced their minimum rates by amounts varying from $\frac{1}{4}$d. to $1\frac{10}{16}$d. an hour; by October 1936, 7 Boards had restored the cuts in whole or in part.

As regards the general achievements of the Trade Boards the statement of the Cave Committee that the Trade Boards " have succeeded in abolishing the grosser forms of underpayment and regularising wages conditions in trades brought under the Acts "[4], would seem to represent the general opinion of those who have made a study of their working. In trades which have been brought under the Acts, many trade union agreements are to be found providing for the payment of rates or the observance of working conditions beyond the statutory minimum requirements. With one or two exceptions, these agreements apply to limited localities or establishments, according to the degree of organisation to be found amongst the workers. Where such agreements do not exist, the trade board rates tend to become the actual rates paid subject to variations from the standard due to the demand for labour, which, of course, may vary from time to time and from district to district. Apart from the existence of specific agreements in trade board trades, it must be remembered that the degree of trade union organisation to be found in a trade board trade has a real influence on the level at which the minimum rates are fixed. Accord-

[1] R. H. TAWNEY : *Minimum Rates in the Tailoring Industry* (London, 1915), p. 35.
[2] D. SELLS : *The British Trade Boards System* (London, 1923), p. 79.
[3] H. F. HOHMAN : *The Development of Social Insurance and Minimum-Wage Legislation in Great Britain* (Boston, 1933), pp. 402, 406.
[4] U. K. MINISTRY OF LABOUR : *Report of Committee of Enquiry into the Working and Effects of the Trade Board Acts*, p. 23.

ing to Sir Hector Hetherington the Trade Board system as a whole

" has produced stability without rigidity. Many businesses which could maintain themselves only by the payment of sweated wages have been forced out of existence. But, on the whole, they have been replaced by more efficient units which have been able to support the higher rates. Wages have risen; employment has not diminished; and there are few trades which would readily return to the unregulated position of pre-Board days." [1]

As regards agriculture, it will be recalled that the Corn Production Act of 1917 prescribed a minimum of 25s. a week pending the initial negotiations of the Wages Board. At this time agricultural wages generally had risen to this figure, and the first Orders, made by the Board in the summer of 1918, fixed wages on a basic minimum of 30s. a week, which was raised to 36s. 6d. in May 1919, to 42s. in April 1920, and to 46s. in August 1920. Immediately before its disestablishment, the Wages Board reduced the basic minimum-wage to 42s. [2] It is noteworthy that in the opinion of the Ministry of Agriculture these rates, although nominally intended to be simply the lowest rates at which any able-bodied worker could be employed, became in effect the standard rates for the classes of workers affected and thus may be taken as the prevailing rates actually paid during the period they were in force [3].

The voluntary Conciliation Committee which replaced the Agricultural Wages Board in 1921 made further reductions, and by the end of November 1921 the average weekly wage for ordinary workers had dropped to 38s. and by December to 37s. Further cuts took place during the next two years and by the time the new Agricultural Wages Committees began to function in 1924 the average was about 28s. The rates fixed by these new Committees represented advances in nearly every area, the increases ranging up to 5s.6d. [4] Down to the middle of 1931 the minima were remarkably steady, the average remaining at 31s. 8d.; intensification of the agricultural depression led, however, to the imposition of cuts by many of the Committees during the period June 1931 to June 1933. As a result of the subsequent improvement in the agricultural situation the Wages Committees proceeded to restore the cuts and by September 1937 the average had risen from its minimum of

[1] *Loc. cit.*, pp. 479-480.
[2] U.K. MINISTRY OF AGRICULTURE AND FISHERIES: *Report of Proceedings under the Agricultural Wages (Regulation) Act, 1924, for the Year ending 30 September 1925* (London, 1926), p. 27.
[3] *Ibid.*, p. 28.
[4] *Ibid.*, pp. 28, 29, 56, 57.

30s. 6½d. in 1933 to 33s. 4d. At the end of April 1937 the figure stood at 34s. 3½d. and in July 1938 the rates in 41 of the 47 areas were higher than at any time since the Act came into operation[1].

Although the minimum rates still tend to become more or less the standard weekly wage in agriculture[2] the average aggregate earnings are thought to be greater as a result, for example, of the fact that a considerable proportion of the regular workers, by reason of their being employed in tending animals, regularly put in more than the standard number of hours. Particulars obtained on farms visited by Inspectors during 1935-1936, with regard to 2,812 ordinary adult male workers, showed that the average total weekly earnings were 35s. 3d., i.e. some 2s. above the average minimum rate. In the case of 739 horsemen, the estimated average earnings were 38s. 4d. a week, while in the case of 874 stockmen the average was 40s. 10d. a week. A number of Agricultural Wages Committees have, it may be noted, fixed special weekly minimum rates for workers who, by reason of their attendance on animals, regularly put in longer hours than those of ordinary workers. These special rates average some 5s. above the weekly minimum rates for ordinary workers[3].

An interesting confirmation of the view that agricultural wages in England have been prevented by the system of minimum-wage legislation from falling sharply in time of depression was given in 1936 in the Report of the Committee on Farm Workers in Scotland, which pointed out that there was a difference of from four to seven shillings in the total weekly remuneration of married ploughmen engaged in comparable work in neighbouring counties situated on opposite sides of the Border[4].

In spite, however, of the improvements brought about by the Agricultural Wages Committees, the general level of agricultural wages remains, in England and Wales as in other countries, low as compared with the wages of workers in urban industry.

Effects on Hours

Under the Trade Boards Act of 1909 no specific powers relating to the fixing of hours or overtime rates of wages were granted to

[1] U.K. Ministry of Agriculture and Fisheries: *Report, etc., for the Year ended 30 September 1937* (London, 1938). pp. 3-4.
[2] U.K. Ministry of Agriculture and Fisheries: *Report, etc., for the Year ended 30 September 1935* (London, 1936), p. 5.
[3] U.K. Ministry of Agriculture and Fisheries: *Report, etc., for the Year ended 30 September 1937*, p. 5.
[4] U.K. Scottish Office: *op. cit.*, p. 29.

the Boards. The 1918 Act, however, empowered Boards to fix overtime rates of wages, and for that purpose to declare the " normal number of hours of work " per week or per day. The declaration by the Boards of 47 or 48 hours as the normal working week in most trades, and in recent years the fixing of shorter hours in a number of cases, involved definite reductions from previous levels. Whereas many large firms had adopted the 48-hour week by 1919, in a number of small firms the Trade Board regulations meant a readjustment. Only in the milk distribution trade did this cause any difficulty[1].

Under the agricultural wages regulations, not only the amount of the minimum wage but also the maximum number of hours for which that wage is payable varies greatly between county and county : the hours prescribed in Orders in operation in England and Wales in 1938 ranged from 48 to 60 and averaged 50 during the winter (November to February) and 52 in summer (usually the eight months March to October). Although the Agricultural Wages Committees have no power to regulate hours of work as such, it is, as the report of the Ministry points out, " obvious that the specification of a particular number of hours in relation to the weekly minimum wage and the requirement of overtime payment for extra hours must tend to influence working conditions "[2] and in general the effect has apparently been to shorten hours.

In the case of holidays, also, improvements have been brought about by similar means.

While the Agricultural Wages (Regulation) Acts do not empower Agricultural Wages Committees to order the observance of holidays, they specifically provide that Committees shall " so far as is reasonably practicable, secure a weekly half-holiday for workers ". This has in most cases been done by defining the employment of ordinary male workers in excess of a specified number of hours or after a certain time on Saturday or on one other weekday in each week as " overtime employment "[3].

Effects on Employment

As has been mentioned, the Cave Committee of 1922 held the view that, although the effect of the Trade Board system on trade

[1] D. Sells : *op. cit.*, pp. 178-183.

[2] Ministry of Agriculture and Fisheries : *Report, etc., for the Year ended 30 September 1937*, pp. 4 and 33-35.

[3] Ministry of Agriculture and Fisheries : *Report, etc., for the Year ended 30 September 1935*, p. 15, and 1937 *Report*, p. 4.

and industry had occasionally been stated in terms of exaggeration, there was substance in the allegation that the operations of some of the Boards had contributed to the volume of trade depression and unemployment[1]. It is significant, however, that in the " sweated " trades to which the original Act of 1909 applied there was no serious dislocation consequent upon the fixing of minimum rates[2]; only with the beginning of trade depression in 1921 were any substantial complaints received. An investigation in 1923 into the economic conditions of the trades in which complaints of unemployment were most prevalent revealed that in each case the unemployment was due to causes more profound and more far-reaching than the minimum wage[3]. More recently Sir Hector Hetherington has claimed that although " many businesses which could maintain themselves only by the payment of sweated wages have been forced out of existence... on the whole they have been replaced by more efficient units... employment has not diminished ".[4]

Somewhat similar considerations apply to the effects of minimum-wage legislation on agricultural employment, although the fact that here the minimum wage is also usually the standard wage, as well as the collapse of unregulated Scottish wages, suggests considerable interference with competitive economic forces. The Ministry of Agriculture, however, stated in 1926 that, as far as could be ascertained, the operation of the minimum rates had not resulted in any diminution in the number of workers employed[5]. In 1931, again, the Ministry drew attention to the decrease in the number of workers employed in agriculture, but doubted whether this could be attributed to wage regulation. It was, indeed, suggested that more men would have left the land if they had not been guaranteed a minimum wage[6].

Effects on Industrial Organisation

In so far as minimum-wage rates are above the rates that would otherwise obtain, any discussion of the effects on the volume of

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[1] See above, page 131.
[2] U.K. Ministry of Labour: *Memorandum on Trade Boards and the Fixing of Minimum Rates of Wages* (London, 1918), p. 4.
[3] D. Sells: *op. cit.*, Part IV, and " The Economic Effects of the British Trade Boards System ", in *International Labour Review*, Vol. VIII, No. 2, August 1923.
[4] *Loc. cit.*, p. 479; cf. p. 135 above.
[5] *Report, etc., for the Year ending 30 September 1925*, p. 31.
[6] *Report, etc., for the Two Years ending 30 September 1930*, p. 33.

employment and the profitability of industry must clearly take into account the factors that go to offset any increase in costs. The general opinion was that the imposition of Trade Board minimum rates tended to stimulate workers to increase output, while at the same time it encouraged employers to make various adjustments in the direction of greater efficiency within their works. A survey of the trades affected in 1923 showed that in nearly all cases wage increases had been accompanied by organisational economies — to such a degree, indeed, that some employers praised the minimum-wage legislation as an incentive to industrial efficiency[1]. That this was so was recognised by the Cave Committee, which drew attention to the protection afforded by the Trade Board regulations to employers faced by unscrupulous competition[2].

In agriculture the greater degree of depression and the relative rigidity of productive methods have both tended to give wage rates more decisive importance. It seems true that " on many arable farms, on which labour charges constitute the largest item in farming costs, any attempt to change a loss in recent years to a profit by reducing wages would have involved a reduction considerably larger than any increase which could possibly be attributed to the operations of the Act of 1924 "[3].

As in the case of industry, it might be argued that any increase in the cost of labour due to minimum wage legislation will, ultimately, be fully made up by the improved productivity consequent upon the attraction of more efficient workers, by better organisation on the farms and by the adoption of labour-saving devices. This does not, however, appear to have happened except in the case of individual and exceptional farms[4]. It was doubtless for this reason that the Committee on Farm Workers in Scotland answered the fear that agricultural wage regulation in Scotland would lead to the imposition of an increase in labour costs beyond the capacity of the industry to bear, not by an appeal to the argument of increased efficiency, but by pointing to the measures of assistance to agricultural producers undertaken by the State[5].

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[1] Cf. D. SELLS : *The British Trade Boards System*, Part III, Chapter VI, and U.K. MINISTRY OF LABOUR : *Memorandum on Trade Boards and the Fixing of Minimum Rates of Wages*, p. 4.

[2] U.K. MINISTRY OF LABOUR : *op. cit.*, p. 23.

[3] U.K. MINISTRY OF AGRICULTURE AND FISHERIES : *Report, etc., for the Two Years ending 30 September 1930*, p. 32.

[4] *Ibid.*, p. 30.

[5] U.K. SCOTTISH OFFICE : *op. cit.*, pp. 30, 31. Cf. also U.K. *Parliamentary Debates, House of Lords*, Vol. 104, No. 36, 23 February 1937, cols. 231 to 276.

It is generally agreed that the operation of the Trade Boards Acts has resulted in an improvement of industrial relations in the trades covered. One of the reasons for the great extension of application of the Acts in the early post-war years was to provide facilities for effecting settlements by negotiation. The Committee on Industry and Trade stated in 1926 that " the fact that a Trade Board is in operation must have an important influence on the relations between employers and workpeople in a trade. In the first place, a body of badly paid workers finds that the Trade Board will secure them a reasonable minimum rate of wages. While strikes on a large scale are beyond the capacity of such workers, sporadic outbursts, which in the aggregate may not be negligible, are likely to occur among them, and the existence of a Trade Board tends to reduce or even extinguish the likelihood of such outbursts ". The Committee also pointed out the value of the opportunities afforded by the regular meetings of the Trade Boards for full discussion with the employers by the leaders of the relatively weak organisations of workers. Such contacts have been found " to conduce to the amicable settlement of differences "[1].

Similar views were expressed by the Cave Committee[2].

Problems of Enforcement

The Committee on Industry and Trade reported in 1926 that " there is little difficulty in securing compliance among the larger employers and that the great majority of workers employed in Trade Board trades receive at least the minimum. Among the smaller employers, compliance is certainly deficient, but this deficiency is less serious as it affects a comparatively small number of workers "[3]. The records of enforcement activities show, however, that each year some five or six thousand workers in Trade Board trades are found to be underpaid and arrears of some £25,000 or £30,000 are secured.

In agriculture the annual amounts recovered have never amounted to as much as £20,000, but the results of intensive test inspections show that a considerable proportion of the workers on the farms visited have not been receiving the proper remuneration due to

[1] Committee on Industry and Trade: *Survey of Industrial Relations* (London, 1926), pp. 291, 292.

[2] U.K. Ministry of Labour: *op. cit.*, p. 23.

[3] *Op. cit.*, p. 293. For a reference to certain difficulties encountered in enforcing the minimum rates during the years immediately after 1920, see E. M. Burns: *Wages and the State* (London, 1926), pp. 170-171.

them under the terms of minimum-wage Orders. In the great majority of cases, however, the underpayment relates not to the ordinary minimum weekly rates of wages, but only to the special rates for overtime which many farmers are apparently reluctant to pay except in times of seasonal pressure[1]. In such cases the penalties imposed are not large : for the 1,059 prosecutions instituted from the inception of the Agricultural Wages (Regulation) Act in 1924 to September 1936 the average amount of fines and costs per prosecution was £3 9s. 4d[2].

The Scope of Wage Regulation

Before a Trade Board can be established the Minister of Labour must be satisfied that, in addition to the fact of low wages, no adequate organisation for the regulation of wages exists. For this and other reasons some requests for an extension of the Trade Board system have been refused. At various times attempts have been made to secure the extension of the 1918 Act to cover sections of the catering trade, the drapery and allied distributive trades, the clinical thermometer trade and certain other poorly-paid trades, but without success. In recent months however a Trade Board has been set up for the baking trade and the Minister of Labour has given notice of his intention to apply the Acts to the rubber manufacturing trade[3]. Moreover the Road Haulage Wages Act of 1938 establishes for another important industry a system of regulation similar in some respects to the Trade Board system.

With these developments, and with the continuance of provisions for extending and giving legal effect to collective agreements in the cotton manufacturing industry[4] and the extension to Scotland of agricultural wage regulation, it is clear that the methods and scope of wage-fixing in Great Britain are still in process of development; and it may be inferred both that the utility of minimum-wage regulation in low-paid or ill-organised trades is being increasingly

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[1] Cf. for example, Ministry of Agriculture and Fisheries : *Report, etc., for the Two Years ended 30 September 1933*, p. 35, and the 1936 *Report*, pp. 5 and 25.

[2] Based on U.K. Ministry of Agriculture and Fisheries : *Report of Proceedings under the Agricultural Wages (Regulation) Act, 1924, for the Year ended 30 September 1936*, pp. 7-8.

[3] *Ministry of Labour Gazette*, August 1938, p. 298.

[4] It may be noted that workers' organisations in the wool textile trade have asked for legislation for their industry similar to the Cotton Manufacturing Industry (Temporary Provisions) Act (U.K. Ministry of Labour : *Report for the Year, 1933*, p. 84).

recognised and that the types of machinery evolved for the purpose have given a wide measure of satisfaction[1]. There are however complaints that important groups of workers are still underpaid and unprotected, and it has been suggested that basic minimum wages for all workers should be fixed by law and that these, being necessarily low, should be supplemented by Trade Boards for specific trades and by a system of family allowances[2].

REFERENCE LIST

British Official Publications

(a) *Legislation*

The Trade Boards Acts, 1909 and 1918.
The Trade Boards Act (Northern Ireland), 1923.
The Corn Production Acts, 1917 and 1920.
The Corn Production Acts (Repeal) Act, 1921.
The Agricultural Wages (Regulation) Act, 1924.
The Agricultural Wages (Regulation) (Scotland) Act, 1937.
The Coal Mines (Minimum Wage) Act, 1912.
The Coal Mines (Minimum Wage) Act (1912) Amendment Act, 1934.
The Cotton Manufacturing Industry (Temporary Provisions) Act, 1934.
The Road Haulage Wages Act, 1938.
Orders and Regulations made under the Acts listed above.

(b) *Other*

Committee on Industry and Trade: *Survey of Industrial Relations*, London, 1926.

Ministry of Labour: *Gazette* (monthly).

Idem: *Report* (annual).

Idem: *Memorandum on Trade Boards and the Fixing of Minimum Rates of Wages*, 1918.

Idem: *Report of Provisional Joint Committee of the Industrial Conference*, Cmd. 501/1920.

Idem: *Report on Conciliation and Arbitration*, 1919, Cmd. 221/1920.

Idem: Committee on the Working and Effects of the Trade Boards Acts: *Report*, Cmd. 1645/1922.

Idem: Do. *Minutes of Evidence*, 1922.

Idem: Cotton Manufacturing Industry (Temporary Provisions) Act, 1934: *Report by the Board.*

Idem: *Report on Wages and Hours of Work in the Wool Textile Industry in Yorkshire*, London, 1936.

Idem: *Report on Collective Agreements*, Vol. I, London, 1934.

Ministry of Agriculture and Fisheries: *Report of Proceedings under the Agricultural Wages (Regulation) Act*, 1924 (annual).

Ministry of Reconstruction: *Second Report on Joint Standing Industrial Councils by the Committee on Relations between Employers and Employees*, Cmd. 9002/1918.

[1] In the case of the system of agricultural wage regulation the degree of success achieved is attested not merely by its extension to Scotland but also by the adoption in Ireland in 1936 of a system which is broadly similar (cf. page 146 below).

[2] Cf. G. D. H. Cole: *Living Wages: the Case for a New Minimum Wage Act* (London, New Fabian Research Bureau, 1938).

MINISTRY OF RECONSTRUCTION : *Memorandum on Industrial Councils and Trade Boards*, Cmd. 9085/1918.

MINISTRY OF RECONSTRUCTION : *Report of the Women's Employment Committee*, Cmd. 9239/1919.

MINISTRY OF LABOUR (Northern Ireland) : *Report*, 1923-1924.

Idem : Report of the Advisory Committee on Trade Boards, Cmd. 7/1922.

Report of the Committee on Farm Workers in Scotland, Cmd. 5217/1936.

DEPARTMENT OF AGRICULTURE FOR SCOTLAND : *Report* (annual).

OTHER PUBLICATIONS

R. H. TAWNEY : *Minimum Rates in the Chain-making Industry* (London, 1914); *Minimum Rates in the Tailoring Industry* (London, 1915).

M. E. BULKLEY : *Minimum Rates in the Box-making Industry* (London, 1915).

W. A. WILLIS : *Trade Boards at Work* (London, 1920).

NATIONAL JOINT COUNCIL, REPRESENTING THE GENERAL COUNCIL OF THE TRADES UNION CONGRESS, etc : *The Fair Wages Clause* (London, 1922).

TRADES UNION CONGRESS AND LABOUR PARTY : *Trade Boards and the Cave Report* (London, 1922).

A. C. PIGOU : " Trade Boards and the Cave Committee ", in *Economic Journal* (London, September 1922).

G. D. H. COLE : *Labour in the Coal-mining Industry* (Oxford, 1923).

D. SELLS : *The British Trade Boards System* (London, P. S. King, 1923).

J. HALLSWORTH : *The Legal Minimum* (London, 1925).

A. G. B. FISHER : *Some Problems of Wages and their Regulation in Great Britain since 1918* (London, P. S. King, 1926).

E. M. BURNS : *Wages and the State* (London, P. S. King, 1926).

J. H. RICHARDSON : *A Study on the Minimum Wage* (London, Allen and Unwin, 1927).

J. W. F. ROWE : *Wages in Practice and Theory* (London, Routledge, 1928).

H. CLAY : *The Problem of Industrial Relations and Other Lectures* (London, Macmillan, 1928), Ch. VIII and X.

H. F. HOHMAN : *The Development of Social Insurance and Minimum-Wage Legislation in Great Britain* (Boston, Houghton Mifflin Co., 1933).

SCOTTISH TRADES UNION CONGRESS : *Report on the Observance in Scotland of the Fair Wages Clause* (Glasgow, 1934).

G. WILLIAMS : *The State and the Standard of Living* (London, P. S. King, 1936).

F. TILLYARD : *The Worker and the State* (London, Routledge, 1936), Section II, Ch. I.

R. J. THOMPSON : " The Agricultural Labour Bill in England and Wales ", in *Journal of the Royal Statist. Society*, Vol. C, Part IV, 1937, pp. 607, 624.

Joseph F. DUNCAN : *The Agricultural Wages Committees.* The Agricultural Wages (Regulation) (Scotland) Act, 1937, explained. (Dalmacoulter, Airdrie, The Scottish Farm Servants' Section of the Transport and General Workers' Union, 1937).

THE SCOTTISH FARM SERVANTS' SECTION OF THE TRANSPORT AND GENERAL WORKERS' UNION : *The Minimum Wage for Agricultural Workers : What it is and what it means* (Dalmacoulter, Airdrie, 1937).

J. H. RICHARDSON : *Industrial Relations in Great Britain* (Geneva, International Labour Office, 2nd Edition, 1938).

H. E. CARLSON : " The British Trade Boards System " in *Monthly Labor Review* (Washington), Vol. 46, No. 5, May 1938, pp. 1085-1099.

Sir Hector HETHERINGTON : " The Working of the British Trade Board System ", in *International Labour Review*, Vol. XXXVIII, No. 4, October 1938, pp. 472-480.

G. D. H. COLE : *Living Wages : the Case for a New Minimum-Wage Act* (London, New Fabian Research Bureau, 1938).

IRELAND

Introduction

The Trade Boards Acts of 1909 and 1918, described in detail in the section on Great Britain, applied originally to Ireland as well as to the present United Kingdom. With the creation of the Irish Free State these Acts remained in force. Certain developments have however taken place in their application. In addition provision was made under the Agricultural Wages Act, 1936, for the regulation of the wages of farm workers.

The minimum-wage principle is also applied by the Conditions of Employment Act, 1936, and the Shops (Conditions of Employment) Act, 1938.

The Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), was ratified by Ireland on 3 June 1930.

The Trade Boards Acts, 1909 and 1918

The objects, scope, machinery and provisions for enforcement of these Acts have already been described in detail in the section on Great Britain. In 1932-33 a reconstitution of certain Boards which had been set up before the establishment of the Irish Free State was found necessary. Extensions to four additional trades were made subsequently. The number of Boards in existence at the time of writing (October 1938) is 15.

The following table shows the minimum time rates laid down for adult male and female workers in each trade at the latest date for which information is available (September 1938).

Statistics are tabulated below, for the years 1930 to 1936, showing the number of workers employed in establishments inspected, the arrears of wages recovered and the number of prosecutions.

Trade Board	Minimum time rates for adult[1] workers				Hours per week	Date effective
	Male		Female			
	Per hour	Per week	Per hour	Per week		
	s. d.	s. d.	s. d.	s. d.		
Aerated waters	1 1	—	7½	—	47	11/4/38
Boot and shoe repairing	—	58 6	—	40 6	48	1/1/35
Brush and broom[2]	1 4½	—	7¾	—	48	20/12/35
	1 5	—	8	—		10/12/35
Button-making	—	—	—	—	—	—
General waste materials reclamation	—	46 0	—	22 6	47	4/5/36
Handkerchief and household piece goods	—	—	7	—	44	8/11/37
Linen and cotton embroidery[3]	—	—	3½	—	—	15/6/34
			5½			
Packing[3]	—	50 0	7	—	44	10/9/38
			8			
Paper box	1 2½	—	8¾	—	45	14/3/38
Rope, twine and net[3]	10	—	10	—	48	11/11/35
	10½		10½			
Shirtmaking[3]	—	47 0	6	—	48	14/9/34
	1 6	—	6½			
Sugar confectionery and food preserving	1 1½	—	7½	—	48	10/1/38
Tailoring[3]	1 0½	—	6½	—	48	30/10/33
	—	87 6	11	—	44	18/6/38
Tobacco	—	50 6	—	32 6	47	19/10/35
Women's clothing and millinery[4]	1 3	—	7½	—	44	11/6/38
			8½			

[1] The age at which workers are classified as "adults" varies in different trades from 18 years and over to 22 years and over.

[2] The rates are fixed on a sliding scale varying in accordance with the movements in the Irish Trade Journal index of the cost of living. The rates given here are those applicable when this index is less than 76 and not less than 71 (in May 1938 the index stood at 71).

[3] The rates fixed vary according to the kind of work: those shown in the table are the lowest and highest rates fixed.

[4] Higher rate applicable only to Dublin, Cork, Limerick and Waterford.

	1930	1931	1932	1933	1934	1935	1936
Number of workers within scope of the Trade Boards Acts employed in establishments inspected (000's)	13.5	12.4	2.4	3.1	5.1	8.1	7.6
Arrears of wages recovered	£544	776	278	292	411	2,006	1,839
Number of prosecutions	0	2	2	0	2	3	2

SOURCE: Communications of the Irish Department of Industry and Commerce to the International Labour Office.

The Agricultural Wages Act, 1936[1]

Scope

Agriculture is defined as including " dairy farming and the use of land as grazing, meadow or pasture land or orchard or osier land or woodland or for market gardens or nursery grounds "; and " agricultural worker " means " a person employed under a contract of service or apprenticeship, whose work under such contract is or includes work in agriculture, but does not include a person whose work under any such contract is mainly domestic service ".

Machinery and Method of Fixing Wages

The Minister of Agriculture is required to divide the country into a number of agricultural wages districts, to group these into agricultural wages areas and to set up for each area a committee, consisting of a chairman and an appropriate number (at least two from each district) of ordinary members, of whom half are to represent the employers and half the workers. All the members are to be nominated by the Minister, who must choose persons representative of agricultural employers and workers respectively. In addition, there is to be a central Agricultural Wages Board composed of twelve members, nominated by the Minister, and including a chairman (who is at the same time to be chairman of all the wages area committees), three " neutral " members, four employers' members and four workers' members.

The Agricultural Wages Board is required to fix by order in respect of each wages district the minimum rates of wages for agricultural workers. When the Board intends to make such an order for any district it must inform the wages committee of the area in which the district is situated of its intention, and the area committee may then within two months make recommendations in relation to minimum rates, which recommendations the Board must take into consideration. Every order made by the Board must be laid before Parliament and may be annulled by a resolution passed by Parliament within the next subsequent 21 sitting-days.

Any minimum rates fixed by the Board may apply universally

[1] No. 53 of 1936, dated 28 November 1936. Extracts from the text of the Act are published in International Labour Office : *Legislative Series*, 1936, I.F.S. 4.

to a whole district or to any special class of agricultural workers, or to any special part of a district. Minimum rates for time work may be fixed by the hour, the day, the week, the month or any other period; and provision may be made for overtime. Rates may also be fixed for piece-work. Further, the Board may define the benefits and advantages which may be reckoned as payment of wages in lieu of cash, and the value at which they are to be reckoned.

The Board may exempt certain agricultural workers from the provisions of the Act if it is satisfied that owing to physical injury, mental deficiency, or infirmity due to age or any other cause, such workers are incapacitated from earning the minimum rate.

Enforcement

Officers of the Board may require employers to produce for their inspection wage sheets or other records of wages paid, and the onus of proof that wages not less than the minimum prescribed rates have been paid rests on the employer. Failure to pay the prescribed rates makes an employer liable to a fine of up to £20, plus £1 a day for each day during which an offence is continued. Whether or not an employer against whom proceedings are taken is convicted, the Court may, if it finds that he has paid less than the prescribed rates, order payment of the difference. In addition to the right of any agricultural worker to recover such difference by civil proceedings, officers of the Board are empowered to institute civil proceedings for such recovery in the name, and on behalf, of the worker.

Application

The Act came into operation on 22 April 1937, under an Order made by the Minister for Agriculture. In accordance with the Act, the Minister divided the entire country into 27 Agricultural Wages Districts and grouped these into five Agricultural Wages Areas. At the same time the Agricultural Wages Board and the Wages Areas Committees were constituted as provided for in the Act.

The first Order under the Act, entitled the Agricultural Wages (Minimum Rates) Order, 1937, came into operation on 9 August 1937. In this Order a flat minimum rate of 24s. per 6-day week of 54 working hours (exclusive of Sundays) was fixed, in respect of all the wages districts in Ireland for all male adult agricultural workers. Workers under 20 years of age were divided into three grades and a separate minimum rate of wages was fixed for each

grade. Minimum rates were also fixed for overtime and for Sunday work. The Order, in addition, defined the benefits and advantages which may be reckoned as payment of wages in lieu of payment in cash and the value at which they were to be reckoned : for example, a farmer who provided a single worker with full board or full board and lodging was entitled to deduct 1s. 11d. per day from the minimum rate of 24s. per week.

The Order mentioned was revoked with effect as from 23 May 1938, on which date a new Order entitled the Agricultural Wages (Minimum Rates) Order, 1938, came into operation. Under the new Order a minimum rate of wages of 27s. per week for a 54-hour week was fixed for all male adult agricultural workers engaged under a contract of employment of less than six months' duration. Separate minimum rates of wages were also fixed for each of three divisions of workers under 20 years of age. In the case of adult workers engaged under a contract of employment of six months' duration or upwards, minimum rates of wages of £6 5s. 0d. per month from March to September inclusive, and £5 5s. 0d. per month from October to February inclusive, were prescribed. Separate minimum rates of wages were also fixed in this case for the three divisions of workers under the adult age. All the minimum rates mentioned are applicable throughout Ireland, with the exception of one small district for which separate minimum rates have been prescribed. In this latter district a minimum rate of wages of 33s. per week for a 54-hour week was laid down for adult workers, and here again separate minimum rates were fixed for workers under 20 years of age. The values of benefits or advantages are also defined in the new Order.

The Conditions of Employment Act, 1936

Preservation of Existing Rates of Wages

The Conditions of Employment Act, 1936, which came into operation on 29 May 1936, prescribes maximum hours of work for persons employed in industrial undertakings and provides in Section 51 that previously existing rates of wages may not be reduced by reason of the fact that hours of work are reduced. Piece-work wages and wages calculated by reference to hours worked must be so adjusted that the average weekly earnings remain unchanged. It is also provided that every minimum rate of wages fixed by statute or under statutory authority which is

in force immediately before the commencement of the Act should continue in force and unchanged in amount, notwithstanding any reduction of hours of work.

Wages Agreement Register

Section 50 of the Act provides that any wages agreement concluded between employers and workers who are substantially representative of the employers and workers in a particular branch of industrial work in the whole, or any particular part of the country may, upon application by one or more of the parties to the agreement, be presented to the Minister for Industry and Commerce for registration. If he considers it suitable for registration, the Minister may register it and it will then be binding on the parties thereto and on every employer and every worker employed in the form of industrial work to which the agreement relates in the area in respect of which it is registered. Such registered agreements are enforceable in a Court of Law. Provision is thereby made for the extension and legal enforcement of collective agreements; the rates of wages fixed in such agreements may thus become minimum standards enforceable throughout the whole of the industry concerned. It is specifically pointed out that nothing in this section is to operate to prevent higher wages than those laid down in the agreement being paid.

Enforcement

Provision is made for inspection and enforcement by the Department of Industry and Commerce; in respect of certain offences both a fine and a sentence of imprisonment may be imposed by the courts.

THE SHOPS (CONDITIONS OF EMPLOYMENT) ACT, 1938

The Shops (Conditions of Employment) Act provides for the establishment of a Shops Wages Board consisting of a chairman and two ordinary members nominated by the Minister for Industry and Commerce. One of the ordinary members must be representative of the proprietors of shops and the other must be representative of members of the staffs of shops. The machinery of the Board may be set in motion by any member of the staff of a shop who claims that his wages are unduly low or by a person representative of the class of members of the staffs of shops to which the person in question belongs. When making the claim, the person

aggrieved or the representative may apply to have a minimum rate of wages fixed for the class of workers concerned.

If in the opinion of the Minister the application is well founded and is made by a person personally aggrieved or by a qualified representative, he must submit the application to the Shops Wages Board, and request it to fix minimum rates of wages for the class of shop workers in the area specified in the occupation. The Board must then, after investigation, publication of draft proposals and consideration of any representations which may be made to it, fix such rates. It may, if it thinks fit, fix different minimum rates for different groups of employees and different kinds of shops in the area concerned.

The minimum-wage rules finally made by the Board must be submitted to the Minister, who is required to make an Order confirming them with or without modification.

The procedure for the enforcement of rates fixed is analogous to that followed in the case of rates fixed by Trade Boards. Any person may apply to the Minister to have any rules fixing minimum rates of wages which are in force amended in specified respects or revoked.

REFERENCE LIST

Irish Official Publications

The Trade Boards Acts, 1909 and 1918.

The Agricultural Wages Act, 1936.

The Conditions of Employment Act, 1936.

The Shops (Conditions of Employment) Act, 1938.

The Agricultural Wages (Minimum Rates) Orders, 1937 and 1938.

Department of Industry and Commerce : Trade Board Orders (published separately in respect of each trade).

Department of Industry and Commerce : *Irish Trade Journal* (Quarterly).

Other Publications

B. F. Shields : *The Evolution of Industrial Organisation* (London, Pitman, 1930); " The Minimum Wage ", in *Journal of the Statistical and Social Enquiry Society of Ireland*, 87th Session, Dublin, 1934.

L. J. Duffy : *The Conditions of Employment Act Handbook* (Dublin, The Labour Party, 1936).

J. R. Clarke : *Employers' Guide to the Conditions of Employment Act.*

L. J. Duffy and M. J. Keating : *The Shops Acts, 1938. A Handbook for the Use of those concerned in the Administration of the Shops (Hours of Trading) Act, 1938, and the Shops (Conditions of Employment) Act, 1938* (Dublin, The Labour Party, 1938).

NEW ZEALAND

Introduction

Three main types of wage regulation are in operation in New Zealand — the fixing by law of generally applicable minimum rates of wages; the making of awards (including the fixing of minimum rates of wages) by the Arbitration Court as a part of its function of settling disputes between employers and registered unions of workers; and the fixing by law or by Order-in-Council, on the basis of agreements, of minimum rates for various classes of agricultural workers.

The legislation for the compulsory arbitration of industrial disputes, which is believed to have been the first of its kind in any country, was originally enacted in 1894. Various changes in the system were made from time to time, notably in the procedure for dealing with disputes by conciliation before their submission to arbitration and in the powers of the Court to extend the scope of its awards and to vary the rates of wages fixed in accordance with changes in economic conditions and in the cost of living. In essentials, however, the system remained unchanged until 1932, when an amending Act limited the jurisdiction of the Court to disputes referred to it by the almost unanimous consent of the parties concerned and to disputes in which women workers were involved. This change, which in effect substituted voluntary for compulsory arbitration and drastically restricted the Court's powers of fixing wages, was made at the instance of organised farmers and employers, who considered that the conditions of depression from which New Zealand was then suffering rendered necessary a greater degree of flexibility in wages and conditions of employment. The trade unions, which had looked to the Court for protection from the pressure for wage reductions which accompanied the depression, were opposed to this restriction of the Court's powers, and in 1936, shortly after the election of a Labour Government, the compulsory jurisdiction of the Court in unsettled

disputes was restored. At the same time provision was made for the registration of unions and the making of awards covering entire industries throughout the country, and the Court was directed to fix basic rates of wages applicable to all workers covered by its awards, and adequate to enable a man to maintain a wife and three children " in a fair and reasonable standard of comfort ".

The jurisdiction of the Arbitration Court has always been limited to disputes involving registered unions of workers. For unorganised workers a measure of protection has been afforded by the minimum-wage provisions of the Factories Act, the Shops and Offices Act and the Agricultural Workers Act. Generally applicable minimum wages for factory workers were first fixed by the Employment of Boys or Girls without Payment Prevention Act of 1899, and were modified and extended by successive Factories Acts, the rates at present in force having been fixed by the Factories Amendment Act, 1936. Minimum rates of wages were first fixed under the Shops and Offices Act for shop assistants in 1904 (the rates at present in force being those fixed by the amending Act of 1936) and for office assistants in 1936. Minimum rates of wages for dairy farm labourers were fixed for the first time by the Agricultural Workers Act, 1936, which links the level of wages in this industry to the level of prices guaranteed by the Government for dairy products; and subsequently under the provisions of the same legislation minimum rates were fixed for most other farm workers not covered by awards or agreements under the arbitration law.

Brief reference may be made also to a provision of the Finance Act, 1936, which cancelled the main wage reductions made during the preceding depression by requiring the restoration of all rates of remuneration payable under Arbitration Court awards, industrial agreements, apprenticeship orders, and contracts of service, together with the wages and salaries of public servants, to the levels current in the early part of 1931.

It may be noted finally that New Zealand's ratification of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), was registered on 29 March 1938.

Legislation at present in Force

THE INDUSTRIAL CONCILIATION AND ARBITRATION ACT, 1925[1], AS AMENDED[2]

Objects

The purpose of this legislation is to secure the settlement of industrial disputes by conciliation and arbitration. To this end the unions of employers and workers registered under the Act are required to submit their disputes to Councils of Conciliation and, if no agreement is reached, to a Court of Arbitration for final settlement. Since rates of wages frequently form one of the most important matters on which the parties are unable to agree, the provision that unresolved disputes must be referred to the Arbitration Court for final settlement serves in effect to constitute the Court a wage-fixing authority.

In addition, the Court is required under the terms of the 1936 amendment to fix basic rates of wages for adult male and female workers subject to its awards, and is empowered to vary these rates from time to time. The basic rate of wages of adult male workers must be such as would, in the opinion of the Court, be sufficient to enable a man in receipt of them to maintain a wife and three children in a fair and reasonable standard of comfort.

With the inclusion of this provision the purpose of the legislation may be said to be extended to include not merely the promotion of industrial peace but the safeguarding of the standard of comfort of the workers.

Scope

The jurisdiction of the Conciliation Councils and of the Arbitration Court is limited to disputes arising in relation to industrial matters between individual employers or registered unions or associations of employers on the one hand, and registered unions or

[1] Reprinted in INTERNATIONAL LABOUR OFFICE: *Legislative Series*, 1925, N.Z. 1.

[2] The amendments still operative are the Industrial Conciliation and Arbitration Amendment Act, 1928 (No. 2), the Finance Act, 1931, the Industrial Conciliation and Arbitration Amendment Act, 1932 (*Legislative Series*, 1932, N.Z. 1), the Industrial Conciliation and Arbitration Amendment Act, 1936 (*Legislative Series*, 1936, N.Z. 1), the Statutes Amendment Act, 1936 (sections 36-39) (*Legislative Series*, 1936, N.Z. 7), and the three Industrial Conciliation and Arbitration Amendment Acts of 1937 (*Legislative Series*, 1937, N.Z. 1A, 1B, and 1C).

associations of workers on the other. Any incorporated company or any society of three or more employers or of fifteen[1] or more workers may be registered as an " industrial union ". Any two or more industrial unions of workers or of employers in any industry or related industries may be registered as an " industrial association ". Industrial associations are usually formed for the whole or greater part of New Zealand and comprise the unions registered in the industries concerned in the various industrial districts (of which there are at present eight). New Zealand unions (i.e. unions covering an entire industry throughout the country) may also be registered, and there are provisions designed to prevent the undue multiplication of unions.

By a provision of the 1936 amendment all workers subject to any award or industrial agreement (with the exception of workers under eighteen or in receipt of less than the minimum rates of wages for adults) are required to become members of a union.

As may be seen from the foregoing summary, the Industrial Conciliation and Arbitration Act is concerned solely with disputes involving unions of workers registered under its provisions. Disputes involving unions of workers not so registered do not come under the jurisdiction of the Conciliation Councils or the Arbitration Court[2]; and only those workers whose conditions of employment are fixed by an award of the Arbitration Court or by an industrial agreement registered under the Arbitration Act are entitled to the benefits of the basic wage.

Two further limitations of the scope of the Industrial Conciliation and Arbitration Act may be noted. First, no award or industrial agreement may affect the employment of any worker who is employed otherwise than for the direct or indirect pecuniary gain of the employer. This provision has been held to exclude domestic servants in private homes and in non-profit-making institutions, and the employees of such bodies as university colleges and religious institutions; it does not however apply to the employees of local authorities or bodies corporate. Secondly, the Act does not apply to servants of the Crown or to the officers of any Government Department, with the exception of the State coal mines and, with

[1] A society of workers with less than fifteen members may be registered if the number of its members is not less than five and not less than 25 per cent. of the total number of workers in the industry in the locality concerned.

[2] There is, however, an obligation to submit such disputes to a procedure of conciliation under the Labour Disputes Investigation Act, 1913, before resort to strike or lock-out.

the concurrence of the Minister of Railways, the Government railways.

Machinery and Method of Fixing Wages

In any industry in which an industrial union of workers has been registered under the Act the union and the employers may enter into and file a binding industrial agreement fixing minimum wages and other conditions of employment. If it be proved that the employers parties to such an agreement employ a majority of the workers in the industry to which it relates in the industrial district in which it was made the Court may, if it thinks fit, on the application of any party to the agreement or of any person bound thereby, make an order extending the operation of the agreement to all employers who are or who at any time after the making of such order become engaged in the industry in the district concerned. The agreement then becomes binding on all such employers.

If no agreement is reached in any dispute, either side may have the dispute brought before a Council of Conciliation consisting of equal numbers (not more than four in each case) of representatives of the employers and workers concerned, and presided over by a Conciliation Commissioner who is a permanent official of the Department of Labour. If no agreement, or only an incomplete agreement, is then reached, the dispute is automatically referred for final settlement to the Court of Arbitration, which consists of a judge having the status of a Supreme Court judge, together with two other members, of whom one is appointed on the nomination of unions of workers and the other on the nomination of unions of employers[1]. The Court may, if it thinks fit, refuse to make an award, and this power has been exercised in certain cases where, for example, the union of workers applying for an award was held not to be sufficiently representative[2]; but in general an award is

[1] In order to enable the Court to catch up with arrears of work provision was made in the Industrial Conciliation and Arbitration Amendment Acts (Nos. 2 and 3), 1937, for the temporary appointment of an additional Judge of the Court of Arbitration, together with additional employers' and workers' members. As a result there were in operation during the latter part of 1937 and in 1938 two Courts of Arbitration. This was originally intended to be a temporary arrangement, but in April 1938 the Minister of Labour expressed the opinion that the Second Arbitration Court was likely to be made a permanent fixture. In this event, he added, arrangements might be made to have one Court handle arbitration cases only and the other deal with workers' compensation cases and certain other matters (*Otago Daily Times*, 2 April 1938).

[2] The principal group of workers excluded from the operation of the system as the result of such decisions was that of general labourers on farms. Since 1936 these workers have been covered by the Agricultural Workers Act, 1936 (see below, pp. 164).

made. In making an award the Court is not bound to follow any specified principles: it is merely directed to determine the matters before it — for example, the minimum rates of wages if these are in dispute — " in such manner in all respects as in equity and good conscience it thinks fit ". The award of the Court is binding not merely on all the parties to the dispute but on every trade union, industrial association or employer who is, when the award comes into force or at any time while it is in force, connected with or engaged in the industry to which it applies in the district to which it relates. The Court may also at any time add new parties to the award and may extend its operation to districts other than those originally covered. An award, like an industrial agreement, is made for a period of not more than three years[1], but nevertheless remains in force until superseded either by another award or by a subsequent agreement, except where the registration of the union of workers concerned has been cancelled otherwise than by the registration of a union covering a larger area.

The Court has power to make provision in any award for the issue to any worker of a permit for a specified period to accept a wage below that prescribed for ordinary workers. Before any such permit is awarded, however, the union of workers in the trade to which the award relates must be given an opportunity to express its views on the matter[2]; and no permit may be granted, except with the authority of the Minister of Labour, to any person who is not usually employed in the industry to which the award relates.

The foregoing description covers the method of making awards and industrial agreements. Two important differences may be noted in the provisions for basic rates of wages. In the first place the Court is directed to fix basic rates by general order without waiting to be asked to do so by the parties concerned, and is then authorised of its own motion or on the application of any industrial union or association to amend such general order from time to time; and in the second place it is given more specific directions

[1] An award may, however, fix for a period not exceeding five years a basis or method for the calculation of wages. (For example, the wage rate per 100 sheep shorn fixed in a shearers' award may be made to vary in a specified manner for a period of five years with movements in the price of wool.) Most recent awards have, it may be noted, been made for a period of about one year.

[2] The Court's usual provision with regard to under-rate workers contains, *inter alia*, a clause authorising any worker who considers himself incapable of earning the minimum wage fixed in an award to agree in writing with the president or secretary of the union concerned on a lower wage which he may accept. Notice of every such agreement must be given to the Inspector of Awards.

as to the considerations to be taken into account in fixing minimum wages.

The Court is directed to fix by general order a basic rate of wages for adult male workers, and by the same or a similar order a separate basic rate of wages for adult female workers. Any such order may be amended from time to time at intervals of not less than six months in any case. In fixing a basic rate of wages the Court must have regard to " the general economic and financial conditions then affecting trade and industry in New Zealand, the cost of living, and any fluctuations in the cost of living since the last order, if any, was made... The basic rate of wages for adult male workers... shall be such a rate as would, in the opinion of the Court, be sufficient to enable a man in receipt thereof to maintain a wife and three children in a fair and reasonable standard of comfort "[1]. When basic rates of wages have been fixed no adult male or female worker the conditions of whose employment are fixed by any award or industrial agreement may, unless in possession of a special permit in writing, receive less than the rates fixed. The conditions governing the issue of permits to receive lower rates are similar to those, summarised above, concerning permits to accept less than award rates of wages.

In the case of casual workers, however, the basic rates do not constitute guaranteed weekly minima; these workers are entitled merely to payment at the rates fixed by award or agreement for the hours worked by them[2].

Enforcement

The administration of the Act is entrusted to the Minister of Labour and Inspectors of Factories and Inspectors of Mines are constituted Inspectors of Awards and are charged with the duty of seeing that the provisions of any industrial agreement, award or order of the Arbitration Court are duly observed. Extensive powers are conferred on these inspectors, including the power to require any employer or worker to produce for their examination the wages and overtime books which the Act requires all the employers bound by awards or agreements to keep. The Arbitration Court may also, with intent to secure the effective operation of any award, empower a representative of any industrial union of workers to enter at all reasonable times the premises of any

[1] Industrial Conciliation and Arbitration Amendment Act, 1936, section 3.
[2] Cf. NEW ZEALAND : *Report of the Department of Labour*, 1937, pp. 6-7.

employer bound by the award and there to interview any workers, but not so as to interfere unreasonably with the employer's business.

Substantial penalties are fixed for breach of award and also for strike or lock-out by any party to an award[1]. Penalties are recoverable by action in a Magistrate's Court, subject to appeal in certain cases to the Court of Arbitration, or in the Court of Arbitration itself.

Any worker who has been paid at less than the rate of wages fixed by an award or industrial agreement is entitled at any time within 12 months to recover the difference from his employer. It has been held that any contract to accept a less rate is void. In addition to the ordinary civil remedies available for the recovery of wages in default, Inspectors of Awards are authorised to take civil proceedings for such recovery in the name of and on behalf of the person entitled to payment (except in any case where the inspector has reason to believe that any default by the employer in the payment of wages was due to misrepresentations made by the worker to the employer).

Application

At the latest date for which information is available (31 March 1938) the number of awards and industrial agreements in operation under the Industrial Conciliation and Arbitration Act was 598. The number of workers for whom minimum wages were thus fixed is not exactly known, but it is not less than the number of members (233,000) of industrial unions of workers registered under the Act at 31 December 1937.

The range of industries covered by these awards and agreements includes practically all manufacturing industries, mining, transport (other than railways), distribution, and local government employees, and a small minority of farm workers.

Basic rates of wages of general application were fixed by the Arbitration Court under the provisions of the Industrial Conciliation and Arbitration Amendment Act, 1936, on 2 November 1936 as follows :

Adult male workers.....	£3 16s. per week
Adult female workers.....	£1 16s. ,, ,,

[1] Any union, association or employer who commits a breach of an award is liable to a penalty of £100 and any worker to a penalty of £5. Any employer who is a party to a lock-out is liable to a penalty of £500 and any worker who is a party to a strike is liable to a penalty of £10.

In its order fixing these rates the Court referred to the provision of the Act that while any general order fixing a basic rate of wages remains in force no adult male or female worker subject to an award or industrial agreement made under the Act should receive less, and concluded that this provision " indicates that the basic wage to be fixed shall not be greater than would be appropriate to the least-skilled and least-remunerative type of work covered or likely to be covered by an award or industrial agreement ".[1]

According to a statement by the Minister of Labour, few female workers would be affected by the basic rates thus fixed. The majority would be entitled to higher rates either under the provisions of awards or industrial agreements or under the Factories Act and the Shops and Offices Act, which provided for a minimum of £2 a week after three years' experience[2]. The basic rate for men would also appear to have affected directly only a small minority. The awards and agreements for the various industries fix minimum rates not merely for the lowest-paid groups of workers, but for other classes as well, and even the lowest rates fixed are in most, if not all, cases appreciably above the basic rate[3].

The industrial organisations concerned have refrained from making any application for a revision of the basic rates and it has been stated that they are content to regard them as a dead letter[4].

In addition to fixing the basic rates of wages the Court from time to time announces the standard minimum rates which it proposes to fix in future awards for three main grades of work — skilled, semi-skilled and unskilled. In the latest such pronouncement[5] the " standard rates ", as they are called, were declared as follows :

Skilled.....	2s. 9d. per hour
Semi-skilled.....	2s. 5d. to 2s. 7½d. per hour
Unskilled	2s. 4d. per hour

Some indication of the activity of the Department of Labour in securing the observance of awards and industrial agreements is

[1] NEW ZEALAND, DEPARTMENT OF LABOUR : *Awards, Recommendations, Agreements, Orders, etc., made under the Industrial Conciliation and Arbitration Act, the Apprentices Act, and the Labour Disputes Investigation Act* (hereinafter referred to as *Awards*), Vol. XXXVI (1936), p. 717.

[2] *Industrial and Labour Information*, Vol. LXI, No. 5, 1 February 1937, p. 142.

[3] Cf. NEW ZEALAND, DEPARTMENT OF LABOUR : *Awards*, Vols. XXXVI (1936) and XXXVII (1937), *passim*, and *New Zealand Official Year-Book*, 1938, pp. 765-766.

[4] Cf. *The Press* (Christchurch), 8 and 9 March 1938.

[5] Pronouncement of Court of Arbitration *re* standard wages, dated 7 September 1937 (*Awards*, Vol. XXXVII, p. 1648).

ENFORCEMENT ACTIVITIES, 1929 - 1938 (YEARS ENDED 31 MARCH) [1]

	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938
Number of complaints received of breaches of the Act and of Awards, etc	3,483	3,629	3,810	3,203	1,821	1,690	2,065	2,854	6,478	8,816
Number of warnings given as a result of such complaints	*	1,700	2,013	1,892	974	953	1,077	1,582	3,110	3,878
Number of cases in which proceedings were taken as a result of complaints	*	381	252	185	105	132	142	270	479	469
Number of cases in which proceedings were taken as a result of ordinary inspections	387 [2]	102 [2]	169	34	23	14	62	87	137	153
Number of convictions recorded against employers	*	306	263	156	89	110	148	262	424	422
Number of convictions recorded against workers	*	88	108	10	9	15	23	42	69	42
Number of convictions recorded — total	309	394	371	166	98	125	171	304	493	464
Penalties imposed (£'s)	567	593	614	253	102	197	292	552	784	618
Arrears of wages collected by Labour Department on behalf of workers (£'s)	8,113	9,621	6,189	4,696	3,656	2,941	5,833	11,791	33,855	36,044
Arrears of wages paid direct to workers at instance of inspectors (£'s)	5,911	3,723	4,539	2,585	2,404	2,794	5,038	6,350	36,866	8,614

* Figures not available.

[1] SOURCE: NEW ZEALAND: *Reports of the Department of Labour*, 1929-1938.

[2] These figures do not include prosecutions for stoppages of work. In the year ended 31 March 1929 proceedings were also taken for a strike against 7 workers in the freezing industry, and in the year ended 31 March 1930 similar proceedings were taken against 6 workers in the same industry.

given by the statistics set out in the accompanying table. The figures, with the exception of those concerning arrears of wages, relate to action taken under the Industrial Conciliation and Arbitration Act. The amounts of arrears collected or paid direct include those due under the other Acts analysed in later sections of this monograph.

It will be noticed that all the figures show a marked falling off in the depression years 1932-1935, followed by a rise in 1936-1938. During the year ended 31 March 1936, increased activity by the Department led to a marked increase in the arrears of wages collected [1] and in the following year there was a further and greater increase as a result of : (1) the operation of the Finance Act, 1936, which required employers to restore the rates of remuneration effective in 1931 (i.e. before the depression had led to severe wage reductions); (2) increases made in 1936 in the minimum rates of wages payable under the Factories Act and the Shops and Offices Act, and (3) the fixing of minimum rates of wages for farm workers under the Agricultural Workers' Act, 1936 [2].

The Factories Act, 1921-1922, the Shops and Offices Act, 1921-1922, and their Amendments [3]

Object

The object of the minimum-wage provisions of these Acts is stated to be to prevent persons being employed in factories or as shop assistants " without reasonable remuneration in money [4] ".

Scope

The minimum rates of wages fixed in the Factories Act are applicable to all factories and the word " factory " is defined to include " any building, office, or place in which one or more persons are employed, directly or indirectly, in any handicraft, or in preparing or manufacturing goods for trade or sale, and includes any building,

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[1] New Zealand : *Report of the Department of Labour*, 1936, p. 6.

[2] New Zealand : *Report of the Department of Labour*, 1937, pp. 6 *et seq.*; and 1938, p. 10.

[3] The amendments affecting minimum rates of wages are the Factories Act Amendment Act, 1936 (*Legislative Series*, 1936, N.Z. 2A) and the Shops and Offices Amendment Act, 1936 (*Legislative Series*, 1936, N.Z. 8).

[4] The Factories Act, 1921-1922, section 32, and the Shops and Offices Act, 1921-1922, section 11.

office, or place in which work such as is ordinarily performed in a factory is performed for or on behalf of any local authority whether for trade or sale or not... ". Practically every factory worker in the country is thus covered by the minimum-wage provisions of this Act[1].

The scope of the Shops and Offices Act in its application to shop assistants is indicated by the definition of " shop " as " any building or place in which goods are kept, exposed, or offered for sale, or in which any part of the business of a shop is conducted : the expression includes an hotel, a restaurant, a hairdressing-saloon and an auction-mart... ". Certain exceptions are enumerated, the principal ones being wholesale stores and private hotels and boarding houses which are not covered by the definition of " restaurant ". A " shop assistant " is defined as " any person other than the wife or husband of the occupier, as the case may be, who is employed by the occupier of a shop in connection with the business of the shop and includes :

" (*a*) Apprentices and improvers;

" (*b*) All persons in the occupier's employment who are engaged in selling or delivering his goods or canvassing for orders for his goods, whether such persons are at any time actually employed inside the shop or not;... "

In order to prevent the placing of junior assistants in charge of small shops for the purpose of evading payment of the statutory minimum rates, the definition of " shop assistant " was extended by section 2 of the Shops and Offices Amendment Act, 1936, to include any person who by reason of his employment in the general management or control of the shop is deemed to be included in the term " occupier " and whose wages do not exceed £6 a week in the case of males or £4 in the case of females.

The scope of the minimum-wage provisions of the Shops and Offices Act in relation to office workers is indicated by the definition of " office " as " any building in which any person is employed directly or indirectly, to do any clerical work in connection with any mercantile or commercial business or calling carried on therein by the occupier thereof... " but does not include " any building or room in which the clerical work of a factory or shop is carried on if situated within the factory or shop " (the latter being covered

[1] The only exception relates to workers employed in buildings in course of erection or in any temporary workshop or shed for workmen engaged in the erection of such buildings.

by the laws relating to factories and shops). There are, however, certain exemptions from the provisions of the Act requiring payment for overtime.

Minimum Rates of Wages Fixed

The minimum rates of wages payable to workers in factories, shops and offices are the same in each case — namely, a minimum commencing rate of 15s. a week with half-yearly increments on this rate (or on the agreed commencing rate if that is higher) of not less than 4s. a week until the end of the third year of employment, and thereafter not less than £2 a week.

In determining the minimum wage to which any person is entitled under these provisions account must be taken of all periods during which that person has been employed in any factory (if a factory worker) or in any shop (if a shop assistant) or in any office (if an office assistant).

Minimum rates of payment for overtime are also fixed; payment must be at the rate of time-and-a-half with a minimum of 1s. 6d. an hour.

In the case of factory workers and (except in shops approved as schools for learners) shop assistants, the payment of premiums to the employer is prohibited.

Enforcement and Application

The administration of the Acts is entrusted to the Minister of Labour and as in the case of the Industrial Conciliation and Arbitration Act, extensive powers are conferred on the inspectors responsible for ascertaining whether the requirements of the legislation are being complied with.

Default in the payment of wages is punishable by a fine not exceeding 5s. for every day during which the default continues; and without affecting other civil remedies for the recovery of wages due, proceedings for recovery may be taken in any case by an inspector on behalf of the person entitled to payment.

The amount of wages in default recovered as a result of action taken under these Acts is included in the figures cited above in the ection relating to the Industrial Conciliation and Arbitration Act (page 160).

THE AGRICULTURAL WORKERS ACT, 1936[1], AS AMENDED[2]

Object

Although the object of this legislation is not expressly stated in the text of the law itself, it was made clear at the time of its enactment that it formed part of the Government's general plan to guarantee " a statutory minimum wage and salary to provide an adequate standard of living for all workers ",[3] and that it was designed to ensure that dairy farm workers should share in the benefits of guaranteed prices for dairy products[4].

Scope

The minimum-wage provisions of the Act were limited in the first instance to dairy farm workers and a dairy farm is defined as " a farm on which not less than ten cows are ordinarily kept and from which milk or cream is sold or otherwise disposed of in the course of business[5] ".

There was however provision for their extension by Order in Council to any specified classes of agricultural workers after consultation with the organisations (if any) of workers and employers concerned. The first instance of such extension occurred in February 1937, when a guaranteed price was fixed for fruit exported and at the same time minimum rates of wages were fixed for orchard workers[6]. In April 1937 the minimum-wage provisions of the Act were extended to cover agricultural and pastoral workers on farms producing wool, meat and grain (with the exception of workers already covered by awards or agreements under the Industrial Conciliation and Arbitration Act)[7] and in April, June

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[1] *Legislative Series*, 1936, N.Z. 5.

[2] The Act was amended by the Statutes Amendment Act, 1936, section 5 (*Legislative Series*, 1936, N.Z. 7) and by the Agricultural Workers Amendment Act, 1937 (*L.S.* 1937, N.Z. 3).

[3] Quotation from the Labour Party election manifesto, 1935 (*The Standard*, Wellington, 13 November 1935). Cf. NEW ZEALAND : *Budget*, 1936, pp. 1 and 19.

[4] E. J. RICHES : " Agricultural Planning and Farm Wages in New Zealand ", in *International Labour Review*, Vol. XXXV, No. 3, March 1937, pp. 309 and 311.

[5] It has been estimated that under this definition " Practically all wage earners in the industry and... more than nine-tenths of all dairy production will be covered " (*ibid.*, p. 316).

[6] The Agricultural Workers Extension Order, 1937, dated 18 February 1937. NEW ZEALAND : *Statutory Regulations*, 1937, serial number 130, p. 569.

[7] The Agricultural Workers Extension Order, 1937, No. 2, dated 14 April 1937 (*Statutory Regulations*, 1937, No. 154, p. 569), and the Agricultural Workers Extension Order, 1937, No. 3 (*Stat. Reg.*, 1937, No. 162, p. 603).

and July 1938 they were extended to agricultural workers employed in market gardens in certain districts [5].

As a result of the various extensions practically all farm workers not under the jurisdiction of the Arbitration Court are now covered by the minimum-wage provisions of the Agricultural Workers Act [2].

Machinery and Method of Fixing Wages

The principal provisions as regards minimum wages in force under this legislation are summarised in the following paragraphs It may, however, be noted in passing that minimum conditions are also fixed as regards such matters as overtime rates, holidays with pay, etc.

Dairy Farm Workers

Minimum rates of wages. — For the first ten months of the operation of the Act (i.e. up to 31 July 1937, the end of the first period for which guaranteed prices were fixed for dairy produce) the minimum rates of wages were fixed in the Act itself. The rates for subsequent periods are to be fixed by Order in Council and in fixing them regard must be had to the prices for the time being fixed under the Primary Products Marketing Act, 1936. The rates must, however, be not less than those fixed for the first period and if at any time no other rates are in force the rates fixed for the first period will be applicable.

The rates fixed so far are as follows [1]:

Age	Minimum weekly rate of wages			
	1936-1937		1937-1938	
	s.	d.	s.	d.
Under 17	17	6	18	6
17 and under 18	22	6	24	0
18 and under 19	27	6	29	0
19 and under 20	32	6	34	6
20 and under 21	37	6	39	6
21 and over	42	6	45	0

[1] The Agricultural Workers Extension Order (No. 2), 1938, dated 21 April 1938 (*Statutory Regulations*, 1938, No. 53), the Agricultural Workers Extension Order (No. 3), 1938, dated 22 June 1938 (*Statutory Regulations*, 1938, No. 74) and the Agricultural Workers Extension Order (No. 4), 1938, dated 27 July 1938 (*Statutory Regulations*, 1938, No. 92).

[2] Share-milkers, though not wage earners, may be regarded as an exception to this statement. They are covered by the Share-Milking Agreements Act of 1938, which fixes minimum conditions for the agreements under which they are employed.

[3] The Agricultural Workers Act, 1936, section 14, and the Agricultural Workers' Wage Fixation Order, 1937, dated 10 November 1937 (*Statutory Regulations*, 1937, No. 273, p. 973).

The increase in 1937-1938 corresponded to a slight increase in the prices guaranteed for dairy produce during the same season.

No charge may be made for board and lodging provided for agricultural workers on dairy farms by their employers. In any case where board and lodging are not provided the minimum rate of wages will be increased by 17s. 6d. per week. No deductions may be made for time lost except where such time is lost by reason of default of the worker or by reason of illness or accident suffered by him.

Under-rate permits. — A permit to work for lower wages may be issued by an inspector to any worker who is incapable of earning the specified minimum rates. A similar permit may be granted to any woman or girl employed as an agricultural worker on any dairy farm if the inspector is satisfied, having regard to the conditions of her employment, the nature of the work performed by her, the time occupied in the performance of her work, and any other relevant circumstances, that she is not reasonably entitled to wages at the prescribed minimum rate. Any allowance payable to such a woman or girl for board and lodging may be similarly reduced[1].

Orchard Workers

Minimum rates of wages[2]. — (*a*) Workers other than casual workers :

Adults : 1937 : Managers, £4 a week; other workers : £3 16s. a week
1938 : „ £4 2s. „ ; „ „ £3 18s. „

If board is provided, 17s. 6d. a week may be deducted.

Youths : 1937 : Rates to be those agreed on between the New Zealand Fruit Growers' Industrial Union of Employers and the New Zealand Workers' Industrial Union of Workers.

Age	Rate per week if board and lodging					
	Provided			Not provided		
1938 :	£	s.	d.	£	s.	d.
15 and under 16	0	12	6	1	0	0
16 and under 17	0	17	6	1	5	0
17 and under 18	1	0	0	1	10	0
18 and under 19	1	10	0	2	0	0
19 and under 20	1	15	0	2	5	0
20 and under 21	2	2	6	2	12	6

The proportion of youths to be employed is limited ordinarily to two to each adult male worker.

[1] For the reasons for these provisions, see E. J. RICHES : " Agricultural Planning and Farm Wages in New Zealand ", in *International Labour Review*, Vol. XXXV, No. 3, March 1937, pp. 314-315.

[2] The Agricultural Workers Extension Order, 1937 (cited above) and the Agricultural Workers Extension Order, 1938, dated 23 February 1938 (*Statutory Regulations*, 1938, No. 22).

(*b*) Casual workers :

	Rate per hour			
	1937		1938	
	s.	d.	s.	d.
Adult male workers	1	8	1	9
Adult female workers	1	4	1	5
Youths and girls :				
Up to 18 years	1	0	1	0
18 years and over	1	2	1	3

No provision is made in the Order for the issue of permits to accept less than these rates.

Workers on Wool, Meat and Grain Farms[1]

Minimum rates of wages. — (*a*) Workers other than casual workers : For the period up to 31 July 1937 the rates fixed were the same as those fixed by the Agricultural Workers Act for dairy farm workers (see p. 165 above).

After 31 July 1937 the minimum rates were to be the same as those for the time being in force for dairy farm workers, provided that the minimum rate for adult workers should not exceed £2 5s. a week.

In the case of any married couple where the wife is employed as a cook or in connection with the operations of the farm or station, the wages of the wife are to be the rate agreed upon between the employer and the worker. In case of dispute, the rate is to be determined by an Inspector of Factories.

No charge is to be made for board and lodging provided for workers by their employers and the wages of any worker who is not provided with board and lodging are to be increased by 17s. 6d. a week. The wages actually being paid to any worker at the date of the coming into force of the Order were not to be reduced.

(*b*) Casual workers : Harvesters : 2s. 0d. an hour with rations. Other workers : 1s. 8d. an hour or 13s. 4d. a day if board and lodging are provided ; or 2s. 0d. an hour and 16s. 0d. a day if board and lodging are not provided. Youths up to 18 years : 1s. 0d. an hour or 8s. 0d. a day with board and lodging, or 1s. 3d. an hour or 10s. 0d. a day without.

[1] The Agricultural Workers Extension Orders, 1937, Nos. 2 and 3 (cited above).

Under-rate permits. — A permit to work for less than the prescribed minimum rate may be granted by an Inspector of Factories to any worker who is incapable of earning the minimum rate or to any woman or girl who, by reason of the conditions of her employment, the nature of the work performed by her, the time occupied in the performance of her work and any other relevant circumstances, is not reasonably entitled to the minimum rate.

Market Garden Employees

Minimum rates of wages[1]*:*

Males :

	Per week £ s. d.
Youths aged 15 to 17	1 0 0
17 to 18	1 10 0
18 to 19	1 15 0
19 to 20	2 5 0
20 to 21	3 0 0
Adults : weekly workers	4 0 0
casuals	2s. an hour.

Females :

	Per week £ s. d.
Up to 18 years	1 5 0
18 to 21 ,,	1 15 0
Adults	2 8 0

The Order provides further that " Any male adult worker who at the date of coming into force of this Order is in receipt of a wage exceeding £4 a week shall on and from that date receive an increase of not less than 2s. 6d. a week on his present wage ".

Save in respect of piecework, minors may be employed in a proportion of not more than two to each three or fraction of three adults, but in special circumstances this proportion may be increased by arrangement between the minor and the employer.

Piece-work may be worked at tying and pruning tomatoes, hand weeding, picking peas, tomatoes, beans and soft fruits at such rates as will enable an ordinary worker to earn the rates set out above.

Under-rate workers. — Provision is made for the issue by inspectors of permits for specified periods to accept wages at lower rates than those set out above.

[1] Fixed by the Agricultural Workers Extension Orders (Nos. 2-4), 1938 (cited above) for the period to 23 April 1939, and thereafter until a further Order is made.

Enforcement and Application

The administration of the Agricultural Workers Act is entrusted to the Minister of Labour. Employers are required to keep wages and holiday books and these may be inspected at any time, together with any such book used within the preceding two years, by any inspector appointed under the Act.

Default in the full payment of wages is punishable by a fine of 5s. for each day during which default continues. An inspector may recover arrears of wages on behalf of the worker except if he has reason to believe that the employer's default was due to misrepresentations made to the employer by the worker.

Information upon the amounts of wages recovered under the provisions of this Act is not separately available; these amounts are included in the totals quoted on page 160 above. During the year ended 31 March 1938 1,180 complaints of non-observance of various provisions of the Act were received and these resulted in 19 prosecutions and 485 warnings. Fines imposed amounted to £13 15s. 0d. In addition 1,024 inspections of dairy farms and 192 inspections of farms and stations were made, as a result of which attention was drawn in 521 cases to failure to observe the statutory provisions [1].

Some Problems and Results of Wage-Fixing

Throughout the greater part of the period during which compulsory arbitration has been in operation, the Arbitration Court has had no specific direction as to the principles which it should follow in fixing minimum wages. The Industrial Conciliation and Arbitration Act merely directs the Court to determine the matters before it " in such manner... as in equity and good conscience it thinks fit ". During the period 1918 to 1923, it is true, when war conditions led to considerable movements in prices and in the cost of living, the Court was empowered to vary wage rates during the currency of awards, having regard to economic and financial considerations and changes in the cost of living. Again in 1931 a similar authority was given for a limited period. In 1936 the Court was directed, in fixing basic rates of wages, to have regard to such considerations and, in the case of adult male workers, to fix such a

[1] *Report of the Department of Labour*, 1938, p. 11.

rate as would enable a worker in receipt thereof to maintain a wife and three children in a fair and reasonable standard of comfort. In fixing all rates above these minima, however, the Court is still left entirely free to act according to its own judgment.

It is of interest in these circumstances to note what criteria the Court has, in practice, elected to adopt. From its earliest decisions the Court has taken into consideration, in fixing minimum wages in any trade, the rates actually being paid in the district concerned and elsewhere for similar work. By a natural extension of the principle involved, it has been led to establish margins for differences in the degree of skill or responsibility involved in different types of work. It has tended in this way to aim at uniformity within a trade and fairness as between different trades. Besides the margins allowed for skill and responsibility, allowances have been made for arduous, dangerous or disagreeable work and for irregularity of employment. The principle of the fair wage has thus formed the foundation of a complex structure of relative wage rates in different industries and occupations [1].

This principle could not, however, determine the absolute level at which the structure of wage rates should be fixed. Wages in different trades may be fair relatively to one another at any one of different possible levels. By 1908 the Court had begun to take into account, in fixing minimum wages for the lowest paid groups of workers, the principle of the " living wage ". From then on, as the cost of living rose, the Court raised the rates fixed in sympathy, and with the amending legislation of 1918 to 1923, which directed it specifically to have regard to a fair standard of living, increasing attention was given to this factor. The legislation did not, however, specify how the amount of a living wage was to be measured and the Court, though obliged to fix a definite amount, did not tie itself down to any particular method of calculation.

At the same time that the requirements of a living wage were emphasised, attention was given to economic and financial considerations affecting trade and industry throughout the country. It is indeed clear from the Court's explanations of its decisions that it has always attached great importance to its estimates of the capacity of industry to pay. During its early years the Court considered this factor largely in terms of the situation of particular industries, but since its adoption in 1919 of the practice of fixing standard

[1] Cf. E. J. RICHES : " The Fair Wage Principle in New Zealand ", in *The Economic Record*, Vol. XIII, No. 25, December 1937, pp. 224-239.

minimum rates for the main grades of skill in all the principal industries the main consideration has been the capacity to pay of the country as a whole. Under this system differences in the capacity to pay of different industries have, with few exceptions, been disregarded.

As might be expected, the various principles or criteria of wage regulation adopted by the Court — the most important of which are the rules that wages should be uniform within each grade of work, appropriately differentiated for different grades, adequate to provide a living wage and within the capacity of industry to pay — have not always pointed to the same conclusions; and at times the Court has been obliged to forgo the application of one or other of its customary criteria. Acute conflicts between the different principles have however been relatively rare, partly no doubt for the reason that the principles themselves have been stated only in broad and general terms which leave a wide latitude for interpretation in their application to particular cases[1]. At certain times, it may be noted, a measure of guidance as to the relative importance to be attached to different principles or aims of wage regulation has been given in the legislation itself. Thus under the amending Acts in force from 1918 to 1923, the requirements of a living wage were made an overriding consideration; and at one time during this period the Court expressed the opinion that " if an industry cannot pay the workers engaged in it a reasonable living wage it is in the interests of the community that it should cease operations and that such workers should become absorbed in some other and more profitable industry "[2]. The legislation of 1931, which empowered the Court to amend by general order the rates of wages both in awards and in industrial agreements, directed it to take into account the economic and financial conditions affecting trade and industry in New Zealand and all other considerations which it deemed relevant, but made no specific reference to the cost of living or a living wage. The Court regarded the latter considerations as relevant, but interpreted the Act as making economic and financial conditions the paramount consideration and made an Order reducing wages by 10 per cent[3].

In its first decision on the subject of the basic wage, on 2 November 1936, the Court referred to the improvement which

[1] Cf. E. J. RICHES : " Conflicts of Principle in Wage Regulation in New Zealand ", in *Economica*, Vol. V (New Series), No. 19, August 1938.
[2] NEW ZEALAND DEPARTMENT OF LABOUR : *Awards*, Vol. XIX, p. 1061.
[3] *Awards*, Vol. XXXI, pp. 145-166.

had taken place in the economic situation in New Zealand, to the movements in wage rates as compared with retail prices, to the minimum rates fixed under the Factories Act, the Shops and Offices Act and the Agricultural Workers Act and to the basic rates of wages prevailing at the time in Australia, but gave no detailed explanation of the manner in which it had estimated the amount required " to enable a man... to maintain a wife and three children in a fair and reasonable state of comfort "[1]. It may be noted that, although this was the first occasion on which the Court had to fix basic rates of wages having immediate and general application, it had for a number of years adopted the practice of announcing from time to time the standard minimum rates of wages it proposed to fix, when cases were referred to it, for three broad classes of work—unskilled, semi-skilled and skilled. The practice is one which serves at once to simplify the work of the Court and to maintain a high degree of uniformity in the same trade in different districts and of fairness as between different trades.

According to students of the working of the arbitration system, the regulation of wages by the Court has, as might be expected from the foregoing account of the methods followed, resulted in the standardisation throughout the country of the rates fixed in particular trades[2]. It has also protected weakly organised workers and led to a closer correspondence between the rates paid in different industries and occupations[3]. In addition, it has given a measure of protection from the consequences of economic fluctuations by exerting a marked stabilising influence on real wage rates; for example, during the boom and slump which followed the war in 1914-1918, real wage rates were maintained with little change[4].

As regards the influence of the Court on the general level of wage rates and on the level of wages in industries under its control as

[1] *Awards*, Vol. XXXVI, p. 715. Cf. also p. 159 above.

[2] Cf. G. W. CLINKARD : " Wages and Working Hours in New Zealand, 1897-1919 ", in *New Zealand Official Year-Book*, 1919, pp. 877 and 916; and E. J. RICHES : " The Restoration of Compulsory Arbitration in New Zealand ", in *International Labour Review*, Vol. XXXIV, No. 6, December 1936, p. 743. These sources and others cited in the succeeding footnotes deal also with aspects of the arbitration system other than those immediately concerned with wage-fixing.

[3] Cf. G. W. CLINKARD, *loc. cit.*, p. 916; NEW ZEALAND GOVERNMENT : *Report of Proceedings of the National Industrial Conference, 1928* (Wellington, 1928), pp. 30, 79-80 and 247; and J. B. CONDLIFFE : *New Zealand in the Making* (London, Allen & Unwin, 1930), pp. 336-337 and 362.

[4] J. B. CONDLIFFE : " Experiments in State Control in New Zealand ", in *International Labour Review*, Vol. IX, No. 3, March 1924, pp. 346-348, and *New Zealand in the Making*, pp. 352-354. Cf. *Awards*, Vol. XXII, pp. 804 and 938, and Vol. XXIII, p. 346.

compared with the level in other industries, there is some conflict of opinion. Critics of the Court have contended that its awards served to increase, in a marked degree, the disparity in wage rates between " sheltered " (industrial) and " unsheltered " (farm) industries[1], while other investigators have maintained that the disparity was due to different causes and that the influence of the Court itself on the level of wage rates had been exaggerated[2].

Statistical evidence on such points as these is naturally limited and inconclusive, but the results of an analysis of experience during the four years 1932 to 1936, when compulsory arbitration was virtually suspended, may be briefly noted[3]. A general reduction of 10 per cent. in the wage rates fixed in awards and agreements had been made in 1931, under the authority of the special enabling Act of that year. In spite of this reduction, however, critics of the Court still complained that wage rates were being maintained at an artificially high level. It is, therefore, of interest to note that the further decline in the general index number of wage rates which took place after the suspension of the Court's compulsory powers averaged only 5½ per cent. and, in the industries which had formerly been subject to awards, it was even less. The decline was less than the decline during the same period in the cost of living, as measured by the index numbers of retail prices. Movements in the cost of living had been taken into account by the Court in fixing wages during previous periods of economic fluctuations and would, no doubt, again have been considered if the Court's powers had been maintained. The conclusion has accordingly been drawn that the decline in wage rates which took place when compulsory arbitration was suspended was very much the same as what might have been expected had the Court's powers remained unchanged. Thus the wage rates fixed by the Court, at any rate at this time, may not have been very different from those which would have existed in the absence of such regulation. In the case of farm workers' wages, the effect of the depression was felt first and most severely by the occupations which had never enjoyed the Court's

[1] Cf. CANTERBURY CHAMBER OF COMMERCE, Bulletin 27, April 1927 : *The Position of the Wage Earner;* and *Report of Proceedings of the National Industrial Conference*, 1928, pp. 22, 42-43, 135 and 142.

[2] Cf. *Report of Proceedings of the National Industrial Conference*, pp. 13, 20, 32, 86-96 and 312-313.

[3] E. J. RICHES : " The Restoration of Compulsory Arbitration in New Zealand ", *loc. cit.*, pp. 734-753, and " Agricultural Planning and Farm Wages in New Zealand ", in *International Labour Review*, Vol. XXXV, No. 3, March 1937, pp. 302-304.

protection. Much the greater part of the decline which took place in wage rates in these occupations occurred before the suspension of the Court's powers in 1932 whereas, in the occupations formerly subject to the Court's authority, a larger proportion occurred after that date. In the latter occupations, however, the total decline was less, so that, although the Court's protection may have delayed the impact of the depression on the wages of workers in these groups, the relatively favourable experience of these workers was apparently not due entirely to this factor.

The disparity between wage rates in sheltered and unsheltered industries, for which the arbitration system had been blamed by certain critics, was not reduced during the period when the Court's powers were suspended; in fact, it was somewhat increased.

Some indication of the Court's influence in protecting weakly organised groups is furnished by the relative movements of men's and women's wage rates during the years when the Court's powers were restricted. In spite of the fact that trade union organisation among women workers was relatively weak, women's wages fell slightly less than men's. This and other evidence, it is held, shows that the right of appeal to the Court which women workers retained during this period constituted a real protection. There are also indications that men workers in the industries in which women were most numerous benefited indirectly from this protection.

Apart from the influence of wage-fixing under the arbitration system on the average level of wage rates in different industries and in industry as a whole, it is of interest to note the extent to which the minimum rates fixed in Arbitration Court awards have become standard rates. The situation in this respect has apparently varied greatly at different times and in different industries. In certain industries, such as shipping, waterside work and mining, it has long been the practice to pay uniform rates of wages in each of the main classes of work, but this practice was established by agreement between the parties and was not the result of any decision by the Court[1]. In other industries however, although there has been a tendency for the minimum rate to become the standard rate during times of depression, it has apparently been a common practice at other times to pay higher rates to the more efficient skilled or semi-skilled workers or to workers in the more

[1] Cf. *Report of Proceedings of the National Industrial Conference*, 1928, p. 234.

prosperous establishments[1]. In certain cases the Court has actually provided in its award that where workers, at the time when the award is made, are receiving rates higher than the minima fixed in the award, their rates are not to be reduced during the currency of the award[2].

In the case of the statutory minimum rates of wages fixed in the Factories Act, the Shops and Offices Act and the Agricultural Workers Act, there is relatively little information available as to their effects in practice. Since considerable numbers of young persons were employed without any remuneration at all before the original enactment of the first two of these Acts[3], it is evident that the minimum rates of wages fixed by law must have constituted a valuable safeguard for such workers. In later years, with the rise which took place in the general level of wages and prices, the minimum rates ceased to be effective, at any rate in the more important industries, for which higher rates were fixed in Arbitration Court awards and agreements and in 1927, for example, it was stated that " since the working conditions laid down by the awards (of the Arbitration Court) are better than those prescribed by the Factories Acts, etc., these Acts have in practice become a dead letter as affecting workers under the jurisdiction of the Court "[4]. The minimum rates fixed by the 1936 amendments were, however, much higher and there is reason to believe that they are of considerable practical importance. An indication of this may be seen in the fact that the minimum rate fixed in the Factories Act and the Shops and Offices Act for workers with three years' experience (£2 a week) is higher than (and consequently supersedes, where it is applicable) the basic rate of wages for adult women workers (£1 16s. a week) fixed on 2 November 1936 by the Arbitration Court and applicable to all workers covered by awards and industrial agreements under the Industrial Conciliation and Arbitration Act. In the case of the Agricultural Workers Act, it has been estimated that the minimum rate fixed for adult male workers

[1] Cf. *idem; Report of the Department of Labour*, 1909, p. 9, and 1929, p. 6; *Awards*, Vol. XXXI, pp. 154-155, 158 and 351; and E. J. RICHES: " The Restoration of Compulsory Arbitration in New Zealand ", in *International Labour Review*, Vol. XXXIV, No. 6, December 1936, pp. 741 and 749 (footnote 2).

[2] See, for example, *Awards*, Vol. XXXVI, p. 1290 (New Zealand stonemasons' award, 19 December 1936).

[3] Cf. *Report of the Department of Labour*, 1896, p. iv.

[4] *New Zealand Official Year-Book*, 1927, p. 847. There were, it may be noted, certain types of establishments (e.g. certain classes of retail shops) which were not covered by Arbitration Court awards or agreements and in the case of which the legal minimum rates may still have been of some importance.

was actually 60 per cent. higher than the ruling rate of six months earlier and probably was still well above the ruling rate at the time when the Act became effective [1]. A further indication of the effectiveness of the rates fixed in 1936 is furnished by the substantial increase, in the year 1936-1937 as compared with 1935-1936, in the arrears of wages collected for or recovered by workers who had been underpaid. A large part of this increase is stated to have been due to the higher minimum rates fixed by the Factories Amendment Act, 1936, the Shops and Offices Amendment Act, 1936, and the Agricultural Workers Act, 1936, and to the provisions of the Finance Act, 1936, which required the restoration of 1931 rates of remuneration [2].

REFERENCE LIST

New Zealand Official Publications

(a) *Legislation*

The Industrial Conciliation and Arbitration Act, 1925, as amended[3].

The Factories Act, 1921-1922, and the Factories Act Amendment Act, 1936[4].

The Shops and Offices Act, 1921-1922, and the Shops and Offices Amendment Act, 1936[5].

The Agricultural Workers Act, 1936, as amended[6], and Orders in Council made under the provisions of this Act.

The Statutes Amendment Act, 1936[7].

(b) *Other*

Department of Labour : *Report of the Department of Labour* (annual); *Awards, Recommendations, Agreements, Orders, etc. made under the Industrial Conciliation and Arbitration Act, the Apprentices Act and the Labour Disputes Investigation Act* (annual volumes); *Journal of the Department of Labour* (last published in 1915);

Census and Statistics Department : *The New Zealand Official Year-Book* (annual).

Report of Proceedings of the National Industrial Conference, 1928.

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[1] E. J. Riches, " Agricultural Planning and Farm Wages in New Zealand ", *loc. cit.*, p. 320.

[2] *Report of the Department of Labour*, 1937, p. 16.

[3] Reprinted in International Labour Office : *Legislative Series*, 1925, N.Z. 1; 1932, N.Z. 1, 1936, N.Z. 1 and 7; and 1937, N.Z. 1A, 1B and 1C.

[4] *Legislative Series*, 1936, N.Z. 2A.

[5] *Legislative Series*, 1936, N.Z. 8.

[6] *Legislative Series*, 1936, N.Z. 5 and 7 and 1937, N.Z. 3.

[7] *Legislative Series*, 1936, N.Z. 7.

Other Publications

(a) *Books*

William Pember Reeves : *State Experiments in Australia and New Zealand* (two volumes) (London, Allen & Unwin, 1902, reprinted in 1923).

Ernest Aves : *Report to the Secretary of State for the Home Department on the Wages Boards and Industrial Conciliation and Arbitration Acts of Australia and New Zealand* (London, H.M.S.O., 1908, Cd. 4167).

H. D. Broadhead : *State Regulation of Labour and Labour Disputes in New Zealand* (Wellington, Whitcombe & Tombs, 1908).

J. E. Le Rossignol and W. Downie Stewart : *State Socialism in New Zealand* (London, George G. Harrap & Co., 1911).

National Industrial Conference Board : *Conciliation and Arbitration in New Zealand*, Research Report No. 23 (Boston, Mass., National Industrial Conference Board, 1919).

E. M. Burns : *Wages and the State* (London, P. S. King & Son, 1926).

J. B. Condliffe : *New Zealand in the Making* (London, Allen & Unwin, 1930), Ch. XI.

F. W. Rowley : *The Industrial Situation in New Zealand* (Wellington, Harry H. Tombs, Ltd., 1931).

Cambridge History of the British Empire, Vol. 7, Part II, *New Zealand* (Cambridge University Press, 1933).

A. J. Mazengarb : *The New Industrial Legislation, Being The Industrial Conciliation and Arbitration Act*, 1925, *and Amendments to* 1936, *The Labour Disputes Investigation Act*, 1913, *The Shops and Offices Act*, 1921-1922 *and Amendments to* 1936, *and The Factories Act*, 1921-1922 *and Amendments to* 1936 (Auckland, Law Book Company of N.Z., Ltd., 1936).

(b) *Articles (published since 1920)*

Sir J. Findlay : " Industrial Peace in New Zealand ", in *International Labour Review*, Vol. IV, No. 1, Oct. 1921.

J. B. Condliffe : " Wage Arbitration in New Zealand under Falling Prices ", in *Economic Journal*, Vol. XXXI, December 1921.

— " Experiments in State Control in New Zealand ", in *International Labour Review*, Vol. IX, No. 3, March 1924.

— " The Effect of Falling Prices upon Labour Conditions in New Zealand ", in *International Labour Review*, Vol. XXIII, No. 4, April 1931.

Dorothy M. Sells : " The Development of State Wage Regulation in Australia and New Zealand ", in *International Labour Review*, Vol. X, Nos 4-6, October-December 1924.

Lloyd Ross : " Arbitration and Conciliation in New Zealand ", in *The Economic Record* (Melbourne), Vol. VIII, No. 15, December 1932.

E. J. Riches : "The Depression and Industrial Arbitration in New Zealand", in *International Labour Review*, Vol. XXVIII, No. 5, November 1933.

N. S. Woods : " A Study of the Basic Wage in New Zealand Prior to 1928 " in *The Economic Record*, Vol. IX, No. 17, December 1933.

W. R. Tuck : " Industrial Law in New Zealand : the 1936 Amendments ", in *The Economic Record*, Vol. XII, No. 23, December 1936.

E. J. Riches : " The Restoration of Compulsory Arbitration in New Zealand ", in *International Labour Review*, Vol. XXXIV, No. 6, December 1936.

— " Agricultural Planning and Farm Wages in New Zealand ", in *International Labour Review*, Vol. XXXV, No. 3, March 1937.

— " The Fair Wage Principle in New Zealand ", in *The Economic Record* Vol. XIII, No. 25, December 1937.

— " Conflicts of Principle in Wage Regulation in New Zealand ", in *Economica*, Vol. V (New Series), No. 19, August 1938.

PERU

Introduction

The fixing of minimum wages was provided for both in the Constitution of 1919 (Article 47) and in that of 1933, which is at present in force. Article 46 of the present Constitution provides that " An Act shall fix minimum-wage rates, taking account of the age and sex of the worker, the character of the work, and conditions and needs in the different regions of the country ".

Although no Act of such general scope has yet been adopted, Peruvian social legislation has provided for the fixing of minimum-wage rates for the protection of certain groups of workers, including women employed in public undertakings[1], indigenous workers employed in the Sierra (Act No. 2285 of 1916), home workers (Act No. 8514 of 1937) and maritime workers (Decree of 1922).

Furthermore, a Decree of 1936 determining the duties and powers of the Directorates of Labour and Social Welfare provides for the setting up of conciliation boards, and lays down that disputes in which these bodies are unable to effect a conciliation must be settled by an arbitration court. When the dispute relates to wages, therefore, the court becomes competent to fix minimum rates.

Peru has not ratified the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26).

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[1] Act No. 2851 of 25 June 1921, concerning the employment of women and minors, section 27 of which makes provision for the fixing of minimum wages for women employed in State or other public establishments; piece rates for work done for these establishments, either in the workshops or in the worker's home, must be such that the worker earns in a legal working day at least the normal wage paid in her locality. As it does not concern private undertakings, this section has not been taken into account in the present analysis.

Legislation at present in Force

Indigenous Workers in the Sierra: Act of 1916 and Presidential Decree of 1923[1]

Objects

The purpose of the Act is to prevent employers from exploiting indigenous workers, for example, by paying them exclusively in kind (food, concessions of pasture and arable land, irrigation, etc.) or arbitrarily over-assessing the value of remuneration paid in kind in such a way as to deprive them of their freedom (and involving them in debt). The Decree of 1923 declares it to be "a duty of the public authorities to contribute to the improvement of the condition of the indigenous population", and to "refuse to tolerate the continuance of a state of affairs incompatible with the most elementary principles of justice". Besides providing for the suppression of the abuses of payment in kind, the Act of 1916 lays down that whatever facilities may be granted to the indigenous workers as remuneration, they must be paid cash wages at a minimum rate of 20 centavos daily.

Scope

The minimum wage fixed by the Act is applicable to all indigenous workers employed in the Sierra in agriculture, stock-raising or industry. The Decree of 1923 assimilates to these categories indigenous workers employed in the transportation of agricultural and mining products.

Machinery and Methods of Fixing Wages

The Decree of 1923 instructs the municipal councils of the Andes provinces to fix the minimum wages of indigenous workers by special order at the beginning of each year. The rate must be equal to the average wages paid in the various parts of the province concerned, and must not be less than the minimum of 20 centavos daily prescribed by Act No. 2285. In the preamble to the Decree, this minimum is regarded as an anachronism which no longer constitutes a fair basis for the regulation of the relations between

[1] Act No. 2285 of 16 October 1916 concerning the fixing of the minimum wages of indigenous workers employed in the Sierra, and Presidential Decree of 11 May 1923 issued thereunder.

capital and labour. The municipal councils must take into account, in fixing minimum-wage rates, (*a*) the information received from the committees for the protection of indigenous workers, the district councils and the municipal authorities, and (*b*) the information which they are able to collect regarding customary wage rates in the province concerned.

Enforcement

The minimum wages fixed by the Act or the municipal councils are binding upon employers; the Native Affairs Section (or its provincial representative), when presented with a claim and called upon to assess the total amount of a worker's debt, must take the regulation minimum rates into consideration. Employers must open a special detailed account for each of their workers, and must enter in it the number of days worked (pieces of work completed in the week), assistance given, advances made, and wages paid.

If an employer fails to pay an indigenous worker his wages in cash, the Act entitles the worker to leave the farm, taking with him his family, animals and working equipment, and authorises the employer to oppose such departure only if there is a contract of employment for a period of not more than one year, in which case the worker's departure is subject to the execution of the contract.

Application

In November 1938 the municipal councils of the provinces of the Sierra had not yet assumed the duties assigned to them by the Presidential Decree of 1923[1]. Actual minimum wages are generally above the rates fixed by the Act of 1916.

Home Workers : Act and Presidential Decree of 1937[2]

Objects

The Act is based on the following principles : (1) that the special nature of home work renders special regulation necessary, in the workers' interests, with a view to its permanent supervision by the State; (2) that the fair and appropriate remuneration of the home worker, who should be considered as far as possible as the

[1] Nevertheless, Decrees concerning conciliation and arbitration (cf. below, pp. 187-188) have afforded protection to a part of these workers.

[2] Act No. 8514 of 12 March 1937, and Presidential Decree of 14 September 1937.

equal of the factory or workshop worker, cannot be secured without the intervention of the administrative authorities; and (3) that the State should correct the unfair inequality in the wages of male and female home workers.

Scope

The Act applies to all home workers, irrespective of sex, whose age exceeds 14 years. " Home work " is defined as " any manual work performed by the day or by the piece or job for the account of an employer either in the worker's home or in a family workshop ". The term " family workshop " is defined as " a workshop group — working for one or several employers — composed of the husband (wife), the relatives in the ascending line, the relatives in the descending line over 14 years of age, or the wards, of the person in charge of the workshop, provided that all work in the same building ".

Machinery and Methods of Fixing Wages

Minimum-wage rates are fixed by the General Labour Inspectorate, account being taken of the wages received by factory workers employed in similar conditions in the same locality. These rates constitute basic wage rates.

The wage of a home worker must not be less than that received for the same work in the same locality by a worker in a workshop or factory working in similar conditions under the immediate direction of his employer. The wage of a woman working at home must not be less than that of a man performing the same work. The wage must be paid in cash without any deductions for materials supplied or sales on credit of articles produced or traded in by the employer. If the delivery of the finished work takes more than one hour, the additional time must be remunerated proportionately to the wages. The employer may deduct up to one-quarter of the wages in case of bad work, subject to the authorisation of the labour inspector.

Enforcement

The legislation provides for both administrative supervision and the protection of wage rates. Every employer must keep a *register* of his home workers in which their full name, sex, age, marital condition, and address must be entered, together with the amount of their remuneration. He must also give each worker a *wage book*, which must be endorsed by the General Labour

Inspectorate, and in which the same particulars as those contained in the register must be entered, as well as the value and character of the materials received by the worker, the wage corresponding to the work required of him, the dates on which the work is given out by the employer and handed in by the worker, and the sum actually paid for it. The General Labour Inspectorate, for its part, keeps a *general register* of all home workers and their employers.

Furthermore, the employer must supply the competent authorities with information concerning home workers, and in particular their conditions of employment and wage rates. He must also inform the Labour Directorate of the wages paid to other workers. The General Labour Inspectorate fixes minimum rates on the basis of the information supplied to it by the employers.

Fines of from 50 to 1,000 soles may be imposed for contravention of the Act.

Application

In November 1938 the competent authorities had not yet fixed minimum rates for home workers.

Merchant Marine and Port Authorities : Regulations approved by Presidential Decree of 13 November 1922

Scope

The Regulations apply to maritime workers exercising their trade in seaports, on Lake Titicaca, and on the rivers of the Peruvian Republic.

Machinery and Methods of Fixing Wages

The Regulations provide for the setting up of committees (*juntas*) to fix wage rates by means of agreements. These committees are composed of : (*a*) two delegates appointed by the chamber of commerce of the locality[1], assisted by two representatives of the maritime authorities, who are not entitled to vote; (*b*) two representatives appointed by the workers and employers; and (*c*) the

[1] If there is no chamber of commerce in the locality or in a neighbouring town, the maritime authorities must appoint the members of the committee from among the traders paying the highest licence dues.

harbour master, who must be chairman. Cases in which the parties fail to reach agreement must be submitted for arbitration to the Minister of the Marine or a person delegated by him. No appeal may be made against the decision of the arbitration authority.

The period of validity of the rates fixed in this way is not limited. The rates may be altered by the committees when there are important reasons for alteration, but not before the expiry of a period of two years from the date of their approval.

Enforcement

Whenever actual wages are found not to be in conformity with the rates approved by the committee and communicated to the port authorities and the superior maritime authorities, the harbour master *ex officio* brings them into conformity.

The maritime authorities deal with complaints concerning the strict application of the rates fixed.

Application

On the basis of these Regulations (Decree of 1922) a collective agreement was concluded on 26 July 1934 between the crews of coasting vessels of the port of Callao and the Shipowners' Association. This agreement lays down the following monthly rates for the various ratings : helmsmen, 50 soles; cooks, 50 soles; cook's mates, etc., 40 soles; chief stewards, 60 soles; greasers, 55 soles; stokers, 50 soles. No other member of a crew may receive a monthly wage of less than 40 soles.

Dockers at Callao : Regulations concerning Conditions of Employment and Wages[1]

Objects

The purpose of the Regulations, which date from just before the transfer to the public works authorities of the work of the port of Callao (commonly referred to as " the maritime terminus ") is :

(1) to subject this work to official regulation, and lay down official rates for its remuneration, with a view to safeguarding the workers and the shipping companies;

[1] Presidential Resolutions of 23 October 1934, 10 December 1934 and 7 January 1936.

(2) to prevent conflicts between capital and labour by protecting, in a spirit of justice, the rights of citizens and the interests of commerce and the public.

Scope

The Regulations apply to all dockers engaged in the loading and unloading of ships in the port of Callao.

Machinery and Methods of Fixing Wages; Rates Fixed

Wage rates have been fixed by legislation, and the scales form an integral part of the Regulations. These distinguish between fifty different kinds of work, fixing the rate for the loading and unloading of each class of merchandise according to the number and weight of the packages. The wage due, for instance, for the handling of 100 sacks of cement weighing from 40 to 50 kg. each is 0.65 sol; that for 100 sacks of coal weighing from 86 to 100 kg., 0.90 sol; that for 100 bales of fruit or vegetables from 1 to 50 kg., 0.50 sol.

The Regulations (Resolution of 7 January 1936) further prescribe a minimum daily wage of 5 soles for stevedores (*estibadores*); this minimum becomes applicable in cases in which the work offered does not provide a gang with sufficient employment to enable each worker to earn the sum in question (on the basis of the rates referred to above).

The minimum daily wage of a marker (*tarjador*) is fixed by the same Regulations at 12 soles.

In cases of doubt regarding the rates or any labour question, and of divergencies in the interpretation of the provisions, the Regulations stipulate that recourse must be had to the maritime authorities. The two parties concerned may also appeal, in the final instance, to the Directorate of Port Authorities or the competent Ministry. The Regulations and rates may be modified only by means of Presidential Resolution issued on the proposal of the Directorate of Port Authorities, which must, in turn, be based upon a report submitted by the port authority of Callao, after the representatives of the shipping companies and of the harbour board and the delegates of the workers have been heard. The port authority must also take account, in its report, of the chief features of the situation existing at the time when the application is made. No change may be made in wage rates within two years of their coming into force.

Conciliation and Arbitration : Presidential Decrees of 1920-1931, Act of 1935 and Decree thereunder of 1936[1]

Objects

The purpose of this legislation is to ensure the settlement of disputes between workers and employers by means of conciliation and arbitration.

When conciliation fails, the dispute must be settled by the arbitration court. Since wage questions frequently constitute the points upon which agreement is most difficult to attain, the arbitration court is frequently in practice a wage-fixing authority.

Scope

The jurisdiction of the conciliation boards and arbitration courts is limited to industrial disputes between an individual employer or a group of employers, on the one hand, and a worker's association or a group of workers belonging to a single undertaking or to a whole trade, on the other.

The jurisdiction of the labour authorities (the Head of the Labour Section) as regards individual claims[2] is not limited to industrial disputes, but includes agricultural employment and, in particular, questions connected with the execution of the " *yanaconaje* "[3] contracts. Owing to the absence of special legislation laying

[1] Presidential Decrees :
(*a*) Decree of 4 March 1920, introducing arbitration procedure for the settlement of disputes between farm managers and the labourers known as " *yanacones* ";
(*b*) Decree of 6 March 1920, regulating the duties of the Labour Section as set up by the Presidential Resolution of 30 September 1919 (repealed);
(*c*) Decree of 27 April 1928, authorising the Labour Section to settle individual workers' claims;
(*d*) Decree of 6 November 1930, empowering the Labour Section to settle individual claims of employees in motor-bus undertakings;
(*e*) Decree of 15 August 1931, concerning the procedure to be followed in connection with workers' private claims.
Act No. 8124 of 5 October 1935 repealed all previous legislation on the subjects with which it deals, including the Presidential Decrees enumerated above. It also set up a Ministry of Public Health, Labour and Social Welfare. The Presidential Decree of 23 March 1936 issued under this Act defined the duties and powers of the Labour Directorate and the Labour Section, and regulated conciliation and arbitration on a fresh basis.

[2] Cf. " Machinery and Methods of Fixing Wages ", p. 17.

[3] Peruvian agricultural contracts between the owner of a farm and an agricultural labourer (*yanacón*), under which the free use of the land and disposal of its produce are reserved to the owner; the *yanacón* must pay the owner a fee (*merced conductiva*), and may be required by him to perform certain agricultural work which should, in principle, be remunerated.

down the main conditions to be observed in contracts of this type, they were frequently confused with farm leases of indeterminate length and, like these, were subject to the provisions of civil legislation. The result was that the labour authorities were often declared incompetent to deal with such cases of dispute as those arising from the expulsion of the *yanacón* from his land (section 1495 of the Peruvian Civil Code). In order to remedy this situation, which was prejudicial to a whole section of the agricultural working population unprotected by the labour authorities, the Presidential Decree of 4 March 1920[1] made arbitration compulsory for all disputes between *yanacones* and owners or managers of farms, provided that the *yanacón* has paid his fee and is entitled neither to the free use of the soil nor to the free disposal of its produce.

Machinery and Methods of Fixing Wages

Collective claims made by associations or groups of workers must be submitted to the Labour Section of the Ministry of Public Health, Labour and Social Welfare.

They must be signed by the full members of the committee of the officially recognised association[2] representing the workers, or, in the absence of such an association, by more than half the workers concerned. The Labour Section transmits the claim to a conciliation board composed of two representatives of the workers and two representatives of the employers and presided over by the Head of the Labour Section.

If the solution adopted fails to satisfy both parties, the dispute must be settled directly by decision of an arbitration court. The arbitration courts are composed of one delegate appointed by each party and a judge nominated by the President of the Supreme Court.

In the case of individual claims regarding wages or other causes of dispute, the Head of the Labour Section is alone responsible for the conciliation proceedings. If such proceedings fail to bring

[1] Repealed by Act No. 8124 of 1935 and reproduced textually in the Decree of 23 March 1938 (section 61). Section 68 of the Decree of 1936 lays down that the procedure prescribed for the settlement of individual claims must be applied also to conflicts arising in connection with the execution of *yanaconaje* contracts.

[2] This condition was imposed by the Presidential Resolution of 7 March 1934, which also applies to employers' associations, and is intended to facilitate the settlement of collective disputes and render agreements more lasting in character.

about a settlement the same official must make an award[1]; appeal may be made against such awards (within a prescribed time-limit) to the Labour Directorate. Thus, in individual disputes of this kind the labour authorities, too, engage in the fixing of wages.

Application

The work of conciliation carried on since 1920 by the Labour Section[2] in respect of collective disputes led to the conclusion of a number of collective agreements fixing minimum wages for the following workers:

(*a*) 560 tramway workers (9 June 1926);
(*b*) 100 employees in electricity undertakings (13 July 1926);
(*c*) 2,250 railwaymen[3] (1 May 1934);
(*d*) 1,620 workers in bakeries (22 June 1934).

As a result of the arbitration procedure also introduced in 1920 for the settlement of collective claims, four disputes regarding minimum wages had been settled by 1936. The two following arbitration awards may be mentioned as the most important:

Award of an arbitration court of 9 September 1933, settling a dispute between the owners of the motor-buses of Lima, Callao and the seaside resorts, on the one hand, and their employees (numbering 290), on the other.

Arbitration award of 27 July 1934, in respect of a collective claim put forward by the workers' organisations of the Valle de San Vincenzo de Cañete[4]. This award laid down minimum wages for all the agricultural workers of the region (men, women and minors), numbering about 18,000.

As regards *yanaconaje* contracts, the arbitration procedure was first applied in connection with the conditions of work of the indigenous *yanacones* employed on the Lauramarca Farm (province of Quispicanchis). As a result of the claims put forward by these

[1] Legislative Decree No. 7190 of 17 April 1931 stipulates that awards of the Head of the Labour Section in respect of individual claims regarding wages, etc., shall have the validity of final judicial decisions.

[2] The Labour Section was created in 1920 (Presidential Decree of 6 March 1920), and until the creation of the Ministry of Public Health, Labour and Social Welfare in 1935 formed a part of the Ministry of Education. Its jurisdiction was less extended than at present, but included " the settlement of disputes between capital and labour and the supervision of the strict observance of the law with regard to labour ".

[3] Peruvian Central Railways.

[4] One of the principal centres of cotton production in Peru.

workers a Presidential Resolution of 11 May 1923 laid down a minimum daily wage of 0.25 sol.

In 1934 a series of *agreements regulating* yanaconaje *contracts* in the department of Piura were concluded under the auspices of the Head of the Labour Section acting as arbitration authority. As regards wages, the common features of these agreements may be stated as follows :

(1) So-called " compensatory " work was prohibited and it was laid down that all services rendered to the owner must be remunerated;

(2) The minimum wage for the 8-hour working day was fixed at :

(*a*) 1 gold sol for farms on the coast (*costa*);

(*b*) 0.70 sol for farms in the mountain districts (*Sierra*) (or 0.60 sol with board).

The practical effect of the collective agreements and arbitration awards based upon this legislation would seem to extend beyond the field to which they directly apply, for the terms of individual contracts are influenced, in a certain measure, by the standards which they set[1].

Peruvian Workers Employed Abroad : Presidential Decrees and Resolutions, 1929-1936[2]

Objects

This legislation, which is of a special character, is intended to ensure the payment of a minimum wage to workers of Peruvian nationality working abroad.

The Additional Act to the Protocol of Friendship and Co-opera-

[1] In this connection mention may be made of the following statements contained in the instructions issued by the Labour Directorate :

I. " Arbitration awards and collective conventions and agreements are intended primarily to prevent the irregularities which may occur in individual contracts of employment. They—and the general principles upon which they are based—determine the terms of individual contracts and protect the workers in the occupations and undertakings which they cover. "

II. " The award of an arbitration body settling a collective dispute settles at the same time all individual disputes which may subsequently occur. " (Manuel A. Vigil : *Legislación del Trabajo*, Lima, 1937, p. 56.)

[2] Presidential Decrees of 24 January 1929, 23 June 1934 and 23 March 1936; Additional Act to the Protocol of Friendship and Co-operation signed by Peru and Colombia at Rio de Janeiro on 24 May 1934 and confirmed by Legislative Resolution No. 7919 of 19 November 1934.

tion signed by Peru and Colombia expresses the desire of these two States to apply, in their fluvial territories, wage rates which shall be equal for men and women and which shall provide workers with a reasonable standard of life, account being taken of circumstances of time and place.

Machinery and Methods of Fixing Wages

The Decrees of 24 January 1929 and 23 June 1934 provide, among other measures, that workers of Peruvian nationality may not be authorised to leave the country unless engaged under a collective or individual contract approved by the competent public authorities, valid for a period of at least three months, and specifying the nature and duration of the work, the *wage agreed upon*, and the length of the working day. The Peruvian consular representatives are responsible for the safeguarding of these workers' rights. Section 6 of the Decree of 23 March 1936 concerning the engagement of Peruvian workers for employment in the mines of Bolivia provides that when the remuneration fixed in the contract is based on piece rates, the minimum monthly pay must not be less than the wages obtained by other workers of the same category for 8 hours' work.

REFERENCE LIST

(*a*) Official Peruvian Publications

Constitución Política de la República del Perú, of 9 April 1933.
Act No. 2285 of 16 October 1916 (indigenous workers in the Sierra).
Act No. 2851 of 23 November 1918 (employment of women).
Act No. 8124 of 5 October 1935 (conciliation and arbitration).
Act No. 8514 of 12 March 1937 (home work).
Presidential Decree of 25 June 1921 (employment of women).
Presidential Decree of 11 May 1923 (indigenous workers in the Sierra).
Presidential Decree of 13 November 1923 (merchant marine and port authorities).
Presidential Decree of 24 January 1929 (Peruvian emigrants).
Presidential Decree of 23 June 1934 (Peruvian emigrants).
Presidential Decree of 23 March 1936 (Peruvian miners in Bolivia).
Presidential Decree of 23 March 1936 (conciliation and arbitration).
Presidential Decree of 14 September 1937 (home work).
Presidential Resolution of 23 October 1934 (loading and unloading).
Presidential Resolution of 10 December 1934 (loading and unloading).
Presidential Resolution of 7 January 1936 (loading and unloading).

Legislative Resolution No. 7919 of 19 November 1934, approving the Additional Act to the Protocol of Friendship and Co-operation signed by Peru and Colombia at Rio de Janeiro on 24 May 1934.

JUNTA DEPARTAMENTO DE LIMA PRO-DESOCUPADOS : *Censo de las Provincias de Lima y Callao* (Lima, 1931).

MINISTERIO DE FOMENTO : *Boletín de la Dirección de Agricultura, Ganadería y Colonización.* 1st and 2nd quarters of 1936.

MINISTERIO DE FOMENTO : *Estadística de la Producción de Arroz en 1935* (Lima).

MINISTERIO DE FOMENTO : *Estadística de la Producción del Trigo* (Lima, 1933).

MINISTERIO DE HACIENDA Y COMERCIO : *Extracto Estadístico del Perú*, 1934-1935 (Lima, 1937).

MINISTERIO DE RELACIONES EXTERIORES : *Tratados, Convenciones y Acuerdos vigentes entre el Perú y otros Estados. I. Instrumentos bilaterales* (Lima, 1936).

(*b*) OTHER PUBLICATIONS

International Labour Office : *Legislación social de América Latina* (2 vols.), Geneva, 1928.

Manuel A. VIGIL : *Legislación del Trabajo* (Lima, 1937).

Fernando Luís Chavéz LEÓN : *Legislación Social del Perú* (Lima, 1937).

José Pareja Paz SOLDÁN : *Geografía del Perú* (Lima, 1937).

Jorge Ramírez OTAROLA : *Legislación Social Peruana*, Vol. I : " Legislación, Crítica, Reforma " (Lima, 1937).

UNITED STATES OF AMERICA

Introduction

Minimum-wage legislation in the United States is concerned almost entirely with private industry. Until recently its application has been confined to women and minors. It has been represented for the most part by State rather than by Federal laws. This, however, has not been the case exclusively, as a few Federal measures have attempted to deal with the regulation of wages. With the passage by Congress of the Fair Labor Standards Act of 1938 a new chapter in the history of minimum-wage legislation is opened and the rôle of Federal action becomes vastly more important.

Federal Regulation

An experiment in Federal regulation of wages through the establishment of minimum-wage rates for various industries was made in the Codes of Fair Competition adopted under the National Industrial Recovery Act[1]. This Act was passed as an emergency measure in June 1933. It was declared unconstitutional by the United States Supreme Court in May 1935[2].

The codes set up for different industries while the Recovery Act was in effect established minimum rates of wages in practically all industrial employments throughout the country. They applied to all workers in the occupations covered, without regard to sex. Several hundred different codes were adopted. These were automatically terminated with the invalidation of the National Industrial Recovery Act.

The Guffey-Vinson Coal Act of 1935 attempted to establish for the bituminous coal industry minimum-wage rates as well as other

[1] 48 U.S. Stats. 1933, Ch. 90.

[2] Schechter Corporation et al. *v.* U.S., 295 U.S. 495, 27 May 1935. This invalidated section 3 of Title I of the Act.

labour standards [1]. This Act was held unconstitutional, in so far as its labour provisions were concerned, by the United States Supreme Court in 1936 [2]. The measure was re-enacted in 1937 without the labour provisions [3].

The most comprehensive legislation on the subject to date is the Fair Labor Standards Act of 25 June 1938 [4]. The only Federal measure of general application in effect, however, at the end of the period covered by the present monograph—July 1938—which provides for the fixing of minimum wages is the Public Contracts Act of 1936. There are, however, certain measures of more limited scope. The Merchant Marine Act of 1936 includes provisions for minimum wages for seamen and officers of subsidised vessels. The Sugar Act of 1937 contains the stipulation that as a condition for receiving a subsidy sugar producers must pay their farm labourers at rates not less than those determined by the Secretary of Agriculture to be fair and reasonable.

The minimum-wage law for the District of Columbia is also a Federal measure. It deals, however, with a single jurisdiction. It is more analogous to State legislation than to Federal Acts and is best treated in connection with the discussion of State laws.

State Regulation

The great majority of minimum-wage laws in effect in the United States are State measures. As shown in table I below, there are now 27 jurisdictions with such laws. These include 25 States [5], the Territory of Puerto Rico and the District of Columbia. The present study is concerned mainly with the development of minimum-wage machinery and its operation in the separate States.

History of Legislation

Minimum-wage legislation has had a stormy course in the United States, in which court action, economic depression, and public

[1] 49 U.S. Stats. 991, Ch. 824.
[2] Carter *v*, Carter Coal Co., 298, U.S. 238.
[3] 50 U.S. Stats, Ch. 127.
[4] For references to this and other laws at present in force, see the Reference List, pp. 244-247 below.
[5] Arizona, Arkansas, California, Colorado, Connecticut, Illinois, Kansas, Kentucky, Louisiana, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Washington and Wisconsin.

opinion have been prominent factors. This has been the case both with the early legislation and with the more recently enacted laws.

Early Legislation

The first minimum-wage law in the United States was the "recommendatory" measure passed by Massachusetts in 1912. This measure provided for a Minimum-Wage Commission authorised to establish wage boards for separate occupations and to recommend minimum rates of wages for the women and minors employed in those occupations, the rates to be based on the findings of the wage boards. In making their findings the wage boards were required to take into account the cost of living for working women and the financial condition of the industry.

Enactment of this measure was part of the movement for progressive legislation which characterised the early part of the twentieth century. It was a result of public opinion aroused over the disclosure in the published reports of an investigation made by the United States Department of Commerce and Labor about this time of the low wages paid to women and children. Public opinion was also influenced by the passage in 1909 of the British Trade Boards Act.

Two features which have characterised much of the subsequent minimum-wage legislation in the United States were found in this original Massachusetts measure. These were: first, the principle of wage protection based on the cost of living for those workers whose bargaining power was weakest; and second, recognition of society's responsibility to help in meeting the problem through provision for representation of the public, employers, and workers on the wage boards established to recommend minimum rates for different occupations.

In the following year, 1913, eight other States[1] enacted minimum-wage laws. All of these, with the exception of the Nebraska law, were of the "mandatory" type; that is, the minimum rates of wages fixed became legally binding. During the succeeding decade eight[2] more laws were enacted, all of which were "mandatory". Two laws, however, those of Nebraska and Texas, were repealed

[1] California, Colorado, Minnesota, Nebraska, Oregon, Utah, Washington, and Wisconsin.

[2] Arizona, Arkansas, District of Columbia, Kansas, North Dakota, Puerto Rico, South Dakota, and Texas.

during this time. There were therefore only 15 jurisdictions with minimum-wage legislation by 1923.

Effect of Court Opinions

Further development of minimum-wage legislation was checked for a decade by Court opinions holding that mandatory minimum-wage laws based on the cost of living were unconstitutional. This is one of the major influences that has shaped the course of minimum-wage legislation in the United States. Another factor which has had material effect is one of the by-products of depression—the "sweat-shop" wages occurring during periods of economic slumps [1]. The more decisive factor, however, has been the influence of the Court opinions.

Before 1923, the courts had sustained minimum-wage legislation in the cases brought before them. The first serious setback to the legislation came in 1923 when the United States Supreme Court declared the minimum-wage law of the District of Columbia unconstitutional as applied to adult women [2].

This decision raised doubts as to the constitutionality of all similar legislation and made enforcement difficult, as administrative officials hesitated to prosecute violators, fearing that the issue would be taken to the courts and the law invalidated. The only law that was not endangered by this decision was the recommendatory Massachusetts law. This law, the constitutionality of which had been upheld by the highest State Court in 1918 [3], was again upheld by the State Supreme Court in 1924 [4], following the adverse opinion of the United States Supreme Court in the case involving the District of Columbia law. The Massachusetts Court, however, took this position because the State law at that time was recommendatory.

Several other laws were declared unconstitutional. The laws of Arizona [5] and Arkansas [6] were invalidated by the United States Supreme Court in 1925 and 1927 respectively. The Wisconsin [7] law was held invalid with respect to adult women by a Federal

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[1] See "Minimum-Wage Legislation", by Ethel M. Johnson, in *American Federationist*, July 1936, p. 694.
[2] Adkins *v.* Children's Hospital, 261 U.S. 525 (1923).
[3] Holcombe *v.* Creamer, 231 Mass. 99, 120 N.E. 354.
[4] Commonwealth *v.* Boston Transcript, 249 Mass. 477 (1924).
[5] Murphy *v.* Sardell, 298 U.S. 530 (1925).
[6] Donham *v.* West Nelson Mfgr. Co., 273 U.S. 657 (1927).
[7] Folding Furniture Co. *v.* Industrial Commission, 300 Federal 991 (1924).

District Court in 1924. The laws of Kansas and Puerto Rico were invalidated by the Supreme Courts of those States; and the Minnesota law by the State Attorney-General. Utah in 1929 repealed its law[1]. Minnesota and Wisconsin continued to apply their laws to minors, as such employees were not affected by the Court opinions. Wisconsin in 1925 enacted a new law penalising employers who paid an " oppressive " wage to adult women. The use of this term was intended to meet one of the objections raised by the United States Supreme Court in connection with the District of Columbia law. The constitutionality of this Wisconsin law, the first " fair wage " measure, was never contested in the courts.

In general, the effect of the adverse court opinions was a slowing-up of the minimum-wage movement throughout the country. Enforcement in most of the States that still retained minimum-wage laws was possible only to the extent that employers, workers and the public co-operated. Few new orders were adopted. Further extension of minimum-wage legislation was checked. By 1933, only nine of the laws remained. These were the laws of California, Colorado, North Dakota, South Dakota, Massachusetts, Minnesota, Oregon, Washington, and Wisconsin. Two of these laws, those of Colorado and South Dakota, were inoperative through lack of appropriation of funds for enforcement, and one—that of Minnesota—was in effect only with respect to minors.

Effect of Depression

In 1933 there was a revival of interest in minimum-wage legislation as a means of meeting the wage cutting and sweat-shop conditions that occurred during the severe economic depression of 1930 and thereafter. As the result of a vigorous campaign in 1932-33 by a number of organisations interested in labour legislation, seven States in 1933 enacted minimum-wage laws[2].

A new form of minimum-wage legislation was represented by these laws in which a fair return for the services rendered was the main factor in place of the minimum cost of living necessary to maintain health. This type of " fair wage " law was intended to overcome the constitutional objections to minimum-wage legislation expressed in the decision invalidating the District of Columbia

[1] " The Drive for a Minimum Wage ", by Ethel M. Johnson, in *Current History*, Sept. 1933, p. 689.

[2] New Hampshire, New York, New Jersey, Connecticut, Illinois, Ohio, and Utah.

law[1]. Of the new laws, six were of the " fair wage " type : those of New Hampshire, New York, New Jersey, Illinois, Connecticut, and Ohio. The seventh law, that of Utah, was of the earlier type represented by the California law in which the minimum rate is based on the cost of living.

Support for the movement was given by the passage in 1933 of the National Industrial Recovery Act, with its recognition of the principle of a minimum wage as one of the factors of a fair labour code[2]. Further assistance came through joint conferences between Federal Labor Department officials and code administrators with State minimum wage executives. These conferences were intended to aid in formulating State standards and in securing an approach to uniformity in State procedure.

Effect of Interstate Compact

Another movement with somewhat similar objectives which developed during this period was that for promoting compacts between the States on matters relating to conditions of employment, with special reference to minimum wages[3]. Its object was to secure the adoption of similar legislation for wage-fixing machinery by competing States. Three States—Massachusetts, New Hampshire and Rhode Island—have already ratified the minimum-wage compact; and Congress has given its approval[4]. The effect of the compact was to stimulate enactment by the States of legislation similar to the Standard Minimum Fair Wage Bill drafted by the National Consumers' League[5].

Despite these advances, progress with the new minimum-wage laws was slow. Only one law was enacted in 1934; Massachusetts in that year repealed its " recommendatory " law and enacted a " mandatory fair wage " law in accordance with the minimum-wage compact. No new law was passed in 1935. Illinois, however, in that year amended its law, which was enacted in 1933 for a two-year period, making it permanent.

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[1] " Minimum-Wage Legislation in the United States, as of July 1, 1937 ", *Monthly Labour Review*, August 1937, p. 382.

[2] " Minimum-Wage Legislation ", by Ethel M. Johnson, *loc. cit.*, p. 694.

[3] For further details regarding interstate labour compacts, see " Interstate Compacts on Labor Legislation in the United States " by Ethel M. Johnson, in *International Labour Review*, Vol. XXXIII, No. 6, June 1936, p. 790. This article draws attention to certain resemblances between the interstate labour compact and International Labour Conventions.

[4] Pub. Resolution No. 58, 75th Congress, approved 12 August 1937.

[5] See p. 207 below.

Invalidation of N.R.A. and Further Court Action

In May 1935 the United States Supreme Court held that the National Industrial Recovery Act was unconstitutional; and by that decision invalidated all the N.R.A. codes, thus terminating minimum-wage regulation on a Federal basis; the decision resulted in a definite slowing up in minimum-wage action. Few new minimum-wage orders were issued. Only one State enacted a minimum-wage law in 1936. This was Rhode Island, which adopted a measure of the mandatory fair wage type similar to the New York State law, thus complying with the terms of the minimum-wage compact to which Rhode Island was signatory.

Following the invalidation of the National Industrial Recovery Act, many attempts were made to secure the enactment of a law which would provide some form of Federal control over wages. In 1936, Congress enacted the Walsh-Healey Public Contracts Act establishing minimum labour standards, including provision for the payment of prevailing minimum rates to employees of firms receiving Government contracts for materials, supplies and equipment.

Meantime several cases raising the issue of the constitutionality of the new type of State minimum-wage legislation as well as of the earlier laws had been brought before the courts. On 1 June 1936 the New York law was declared unconstitutional by the United States Supreme Court[1]. This decision, coupled with the N.R.A. decision of the previous year, virtually excluded minimum-wage regulation, in so far as adult employees were concerned, from the scope of State as well as Federal legislation. It created what President Roosevelt termed a " no-man's land " outside legal protection; and it led to doubt as to the validity of all the minimum-wage legislation at that time in effect[2].

On 29 March 1937, however, the Supreme Court of the United States held the Washington State Minimum-Wage Law—a measure of the cost-of-living type—constitutional[3]; thus specifically reversing its position taken 14 years earlier, when it held the District of Columbia law invalid.

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[1] Morehead *v.* Tipaldo, 298 U.S. 587, 56 Sup. Ct. 918 (1936).
[2] " Minimum Wage Legislation ", *loc. cit.* p. 697.
[3] West Coast Hotel Co. *v.* Parish, 300 U.S. 397, 57 Sup. Ct. 578 (1937).

Revival of Minimum-Wage Activity

A resurgence of minimum-wage legislation and regulation followed. At the time of the Court's decision, there were 17 States and Territories with minimum-wage laws[1]. In two States, however—Minnesota and New York—the laws were limited in their application to minors, following adverse Court opinions regarding their constitutionality with respect to adult women.

Subsequent to the favourable opinion of the Supreme Court in 1937, a number of States enacted minimum-wage legislation, including new laws, repassage of earlier laws, and amendments to existing statutes. Three States which had never previously had minimum-wage laws—Nevada, Oklahoma, and Pennsylvania—enacted legislation in 1937. Arizona, whose " flat rate " law had been inoperative since 1925, when it was declared unconstitutional by the Supreme Court of the United States, enacted a new law of the " fair wage " type with a proviso that the minimum wage should be based both on the value of services rendered and on the cost of living[2].

Three other States—New York, Massachusetts, and Wisconsin[3]—re-enacted earlier laws. Five laws which had been inoperative, wholly or in part, for a number of years as the result of opinions regarding their constitutionality were revived on the advice of attorneys-general. These were the laws of Arkansas, the District of Columbia, Kansas, Puerto Rico, and Minnesota.

The action of the States following the validation of minimum-wage legislation was not confined to the passage of laws. There was increased activity in the establishment of minimum-wage boards, the issue of wage orders, and other minimum-wage work. Appropriations of funds for minimum-wage work were made for practically the first time in Colorado and in Utah under its new law of 1933. Wage-board activity, which had been suspended under the New Jersey law, was resumed. " Directory " orders under " fair wage " laws were issued in a number of States; and several States for the first time issued " mandatory " orders.

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[1] California, Colorado, Connecticut, Illinois, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Rhode Island, South Dakota, Utah, Washington, and Wisconsin.

[2] " Minimum Wage Legislation in the United States ", *loc. cit.*, p. 382.

[3] The action of Wisconsin may be described as an amendment whereby part of the original law was re-enacted.

Factors Contributing to the Development

Although the favourable decision of the Supreme Court of the United States in March 1937 upholding the constitutionality of minimum-wage legislation has been an important factor in stimulating legislation and administrative activity within the States, there have been other contributing factors. The depression focused attention on the importance of protecting low-wage earners. The National Industrial Recovery Act made the public wage-conscious. The nation-wide indignation over the opinion of the United States Supreme Court in 1936, invalidating the New York State minimum-wage law, served as an incentive to the legislatures when the bar of unconstitutionality was removed.

A less dramatic factor, but one which has been extremely important in the administrative field, is the impetus given by the National Conferences on Labor Legislation and those on Minimum-Wage Legislation, arranged by the Secretary of Labor. When the administrators of the laws in the several States meet for the discussion of common problems, the work in the progressive States serves as a stimulus to those which in the past have lagged in labour legislation and labour law administration. There have, in fact, been striking advances in this field as a result of these conferences.

Developments in 1938

Developments in minimum-wage legislation in the States during the first seven months of 1938 included the validation of the Kansas law by ruling of the Attorney-General; the enactment of minimum-wage laws by Kentucky and Louisiana; and the initiation of court action in three States—Utah, Oklahoma and Minnesota—with a view to preventing the enforcement of minimum-wage orders. Kentucky enacted a " mandatory fair wage " law and Louisiana enacted " mandatory " legislation of the " cost-of-living " type, limiting its application to women and girls employed in municipalities having a population over 10,000. This brought the number of jurisdictions in the United States with minimum-wage laws to 27, including 25 States, the Territory of Puerto Rico and the District of Columbia. The full list of these jurisdictions is shown in table I below.

The various States which have minimum-wage laws have

TABLE I. — JURISDICTIONS IN THE UNITED STATES THAT HAVE ENACTED MINIMUM-WAGE LAWS TO JULY 1938*

Jurisdictions	Date of original enactment	Invalidation or repeal	Validation, re-enactment, amendment**, or new law	Type of law in effect, July 1938
Arizona	1917	Invalidated 1925 [1]	1937 (New law)	Flexible fair wage and cost of living.
Arkansas [2]	1915	Invalidated 1927 [3]	1937 (Validated) [4]	Flat rate which may be varied with cost of living.
California	1913			Flexible cost of living.
Colorado [5]	1913 [6]		1917 (Re-enacted) [6] 1937 (Amended) [5]	Flexible cost of living.
Connecticut	1933			Flexible fair wage.
District of Columbia	1918	Invalidated 1923 [7]	1937 (Validated) [4]	Flexible cost of living.
Illinois	1933		1935 (Amended) [8]	Flexible fair wage and cost of living.
Kansas	1915	Invalidated 1925 [9]	1938 (Validated) [4]	Flexible cost of living.
Kentucky	1938			Flexible fair wage and cost of living.
Louisiana	1938			Flexible cost of living.
Massachusetts	1912 [10]		1934 (New law) [11] 1936 (Amended) [12] 1937 (Re-enacted 1934 law) [13]	Flexible fair wage and cost of living
Minnesota	1913	Invalidated 1925 [14]	1937 (Validated) [4]	Flexible cost of living.
Nebraska [10]	1913	Repealed 1919		
Nevada [2]	1937			Inflexible flat rate.
New Hampshire	1933			Flexible fair wage.
New Jersey	1933			Flexible fair wage.
New York	1933 [11]	Invalidated 1936 [15]	1937 (Re-enacted) [16]	Flexible fair wage and cost of living.
North Dakota	1919			Flexible cost of living.
Ohio	1933			Flexible fair wage.
Oklahoma [17]	1937			Flexible cost of living.
Oregon	1913			Flexible cost of living.
Pennsylvania	1937			Flexible fair wage and cost of living.
Puerto Rico [2]	1919	Invalidated 1924 [18]	1937 (Validated) [4]	Inflexible flat rate.
Rhode Island	1936			Flexible fair wage.
South Dakota [2]	1923			Inflexible flat rate.
Texas	1919	Repealed 1921		
Utah	1913 [19]	Repealed 1929	1933 (New law) [5]	Flexible cost of living.
Washington	1913			Flexible cost of living.
Wisconsin	1913	Invalidated 1924 [20]	1925 (New law) [21] 1937 [22]	Flexible cost of living.

*With the exception of Nebraska and Texas, whose laws have been repealed, all of the States listed had minimum-wage laws in effect in 1938. — **This refers to substantial change in the nature of the law, not to minor amendments. — [1] By opinion of the U.S. Supreme Court, 1925, in Murphy *v.* Seidell, 298 U.S. 530. — [2] Applies to women and girls only. — [3] By opinion of the U.S. Supreme Court in Donham *v.* West Nelson Manufacturing Co., 273 U.S. 657. — [4] By ruling of Attorney-General. — [5] Law inoperative for lack of appropriation until 1937. — [6] Temporary Wage Board created in 1913. Minimum-Wage Act passed in 1915 and vetoed by Governor. Law re-enacted in 1917 and administration placed under Industrial Commission. — [7] By U.S. Supreme Court in Adkins *v.* Children's Hospital, 261 U.S. 525. — [8] Amendment to make law which was enacted for a two-year period permanent. — [9] By Kansas Supreme Court. — [10] Recommendatory law. — [11] Mandatory fair wage law. — [12] Minimum-wage administration placed under the jurisdiction of the Department of Public Health. — [13] Mandatory fair wage law re-enacted with addition of cost-of-living provision and administration returned to Department of Labor and Industries. — [14] Ruled unconstitutional by Attorney-General with respect to adult women. — [15] By U.S. Supreme Court in Morehead *v.* Tipaldo, 298 U.S. 587, 56 Sup. Ct. 918. — [16] Re-enacted with the addition of cost-of-living provision. — [17] Applies to men as well as women and minors. — [18] By Supreme Court of Puerto Rico. — [19] Original law was of the flat-rate type. — [20] With regard to adult women, by Federal District Court. — [21] Prohibited oppressive wage for women. — [22] Law amended re-enacting original provision regarding adult women.

continued to bring additional occupations under wage orders. In general it has been the policy of the State administrators to select for wage action occupations of an intrastate nature, such as the service trades, pending the outcome of the attempt to secure Federal regulation of interstate activities[1].

Enactment of Fair Labor Standards Act

One of the most important developments in minimum-wage legislation in the United States in recent years is the passage of the Fair Labor Standards Act. This measure, signed by the President on 25 June 1938, provides for the establishment of minimum-wage rates for employees engaged in industries in or affecting interstate commerce.

It is the first measure of a permanent nature and of general scope providing machinery for nation-wide regulation of wages in the United States. Its effect on State minimum-wage activities will presumably be to limit such action more largely to occupations of an intrastate character. There is nothing, however, in the Federal Act to prohibit States from establishing higher minima than those fixed under the Act for employees in interstate industries located within their borders, if they desire to do so.

The United States and the Minimum Wage-Fixing Machinery Convention

No action has been taken by the United States with respect to the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), or with respect to the Minimum Wage-Fixing Machinery Recommendation, 1928 (No. 30). Both the Convention and the Recommendation were adopted before the date when the United States became a Member of the International Labour Organisation.

Present Legislation and Practice

Objects of Legislation

The objectives of minimum-wage legislation in the United States have been described by the Women's Bureau of the U. S.

[1] See " A Year of Minimum Wage ", by Mary Anderson, Director of Women's Bureau, United States Department of Labor, in *American Federationist*, April 1938, p. 370.

Department of Labor as follows : " To set a bottom limit below which wages cannot fall; to assure women fair wages for their services and to help them meet the cost of a healthful standard of living; to end sweat shops and cut-throat competition among employers; to relieve the community which has had to supplement low wages by public and private relief; to establish the purchasing power of the workers necessary to bring about and maintain industrial recovery, to assist and extend the gains made by the N.R.A.[1] "

Such in general have been the aims of both State and Federal legislation concerned with the establishment of minimum-wage rates. These two types of laws are distinct and will be treated separately. As previously pointed out, the major part of minimum-wage legislation in the United States is represented by State laws. These will be considered first.

State Laws and Regulations

Analysis of Legislation

Scope

(a) *With respect to persons.* — With one exception, the State minimum-wage laws are limited in their scope to women and minors. The Oklahoma law enacted in 1937 includes adult men as well[2]. Twenty-two of the 27 wage laws cover minors of both sexes as well as adult women. The five remaining laws, those of Arkansas, Louisiana, Nevada, Puerto Rico and South Dakota, apply only to women and girls. The South Dakota law covers women and female minors over 14 years of age. The Massachusetts law includes minors of both sexes as well as adult women.

There is some variation among the State laws with respect to the age of the minors included. The majority of the laws include minors of either sex under 21 years of age[3]. Six States apply the law to minors of either sex under 18 years of age[4]. California and Utah include girls under 21 and boys under 18 years of age;

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[1] U.S. Women's Bureau : *Why Legislate Living Wages for Women Workers*, issued 15 March 1935, Washington, D.C., p. 4.

[2] The constitutionality of this law has been called in question before the courts.

[3] Arizona, Connecticut, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island and Wisconsin.

[4] Colorado, District of Columbia, North Dakota, Oklahoma, Oregon and Washington.

while Illinois includes girls under 18 and boys under 21 years of age. The Louisiana law includes girls under 18 years.

(b) *With respect to occupations.* — The scope of minimum-wage laws with respect to occupations varies widely. Nine States include in their statutory definition of scope all occupations or all occupations in which women and minors are employed. These are California, Colorado, Louisiana, Minnesota, Oregon, Rhode Island, Utah, Washington and Wisconsin.

The Oregon law covers " any and every vocation and pursuit and trade and industry "; while the Rhode Island law covers any " industry, trade or business or branch thereof or class of work therein in which women or minors are gainfully employed ". The Wisconsin law applies to " every person who is in receipt of or is entitled to any compensation for labor performed for any employer ". The Louisiana law covers " any occupation, trade or industry, except labor on the farm and domestic service " in which women and girls are employed — in municipalities with a population over 10,000.

The majority of the laws are general in scope, with enumeration of any excepted employments. Private domestic service and farm labour are excluded from the scope of most of the laws. Other occupations are excluded from the laws of certain States. The Arkansas minimum-wage law, for example, does not apply to cotton factories. The New Jersey law excludes hotels; and the Pennsylvania law excludes boys employed in the sale and delivery of newspapers and magazines. Nevada excludes Governmental service as well as domestic service.

Type of Law

All of the laws now in effect contain provisions for " mandatory " wage orders, although some of the more recently enacted measures — those of the " fair wage " type — provide that the wage orders shall be " directory ", that is, in the nature of a recommendation, for a specified period, after which they may be made " mandatory ". Once the order becomes " mandatory ", non-compliance is punishable by fine or imprisonment, or both. During the " directory " period publication of the names of non-complying firms is the only penalty in case of violation of the orders. The original Massachusetts law of 1912 was " recommendatory " with respect to its wage orders. The Nebraska law enacted in 1913 and subsequently repealed was also of this nature.

The various laws may be classified in two groups according to the method employed in the establishment of minimum rates. There are the " inflexible " or " rigid " laws, in which the minimum rate is fixed by statute; and the " flexible " type of laws, which establish wage-fixing machinery, leaving the fixing of minimum rates to a board, commission, or conference. With respect to the bases or principles according to which the minimum rates must be determined, the various laws may be classified as being of the " cost of living " or the " fair wage " type.

(a) " *Inflexible* " *laws.* — Only four of the 27 minimum-wage laws in effect at the end of July 1938 establish a statutory minimum rate. These are the laws of Arkansas, Nevada, South Dakota, and Puerto Rico. These laws are sometimes referred to as " flat rate " laws because of the single rate established in the statute. They are also described as " inflexible " or " rigid " laws, since they do not permit variation to meet changing economic conditions or special circumstances. Except in the case of the Arkansas law, changes can be made only by legislative amendment. Under the Arkansas law the minimum rate may be varied by the Industrial Welfare Commission to meet changes in the cost of living.

(b) " *Flexible* " *laws.* — In contrast to the " inflexible " laws, the " flexible " measures do not establish minimum rates, but instead provide the machinery by which the rates are to be established.

By far the greater number of the laws now in effect are of the " flexible " type. Of the 27 jurisdictions with minimum-wage laws, 23 have laws of this type[1]. These include 22 States and the District of Columbia. Although there is considerable variation in these laws, all require a governmental agency to administer and enforce the regulations. This agency is vested with broad discretionary powers which have the force of law. The administrative agency issues the wage orders or wage decrees, but does not as a rule determine the minimum rates itself. This is usually done by a wage board or conference appointed by the administrative agency on which employers and employees in the occupation under consideration and the public are represented.

[1] Arizona, California, Colorado, Connecticut, District of Columbia, Illinois, Kansas, Kentucky, Louisiana, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Washington, Wisconsin.

In two States — Colorado and Minnesota — the administrative agency may either establish the minimum rates itself or base its action on the recommendation of the wage board. In a third State — Wisconsin — the findings are generally made by the State administrative agency and the wage board acting together[1]. In the other States, a wage board or conference recommends minimum rates to the administrative agency, which has authority to accept or reject the recommendations.

Under the " flexible " laws, revision of the minimum rates which have been established can be effected through re-convening the wage board or forming a new board for the occupation in question. There is, in general, provision for the inclusion, in the membership of the board, of representatives of the occupation concerned in each case, and for the determination of different rates of wages for different categories of employees : provision is also made for administrative regulations to safeguard the effectiveness of the wage orders. With the exception of the Nevada law, all the minimum-wage laws enacted since 1923 have been of the " flexible " type.

Bases or Principles of Wage Fixation

In all of the " flexible " laws, the cost of living is specified or implied as one of the factors to be taken into account in determining minimum-wage rates. Several laws include both this factor and the principle of a fair return for the work performed. In some instances other factors have been combined with these. In general, however, the primary factor on which the wage orders are to be based is the minimum necessary to meet the cost of living or to constitute a fair and reasonable return for the services rendered.

(a) " *Cost-of-Living* " *basis.* — Practically all of the early minimum-wage laws were of the " cost-of-living " type. Usually the statutes specified that the minimum rates established should be sufficient to meet the necessary cost of living and maintain health. A few of them also required consideration of the financial condition of the industry. Some of the laws now in effect require that the rates shall be adequate for the protection of morals as well as health. The District of Columbia law, for example, requires the Minimum-Wage Board to determine standards of minimum wages

[1] To a certain extent the procedure under the Arizona, District of Columbia, North Dakota, and Utah laws is similar, as in these States one or more members of the administrative agency sit with the wage board and participate in the deliberations. In Arizona and Utah the Commission member sits as Chairman.

for women and to decide " what wages are inadequate to supply the necessary cost of living to any such women workers to maintain them in good health and to protect their morals ".

After the invalidation of the District of Columbia law in 1923[1] a new type of minimum-wage legislation was introduced. This was the " fair-wage " law. It represented an attempt to meet the objections raised by the courts to mandatory minimum-wage legislation based on the cost of living. The new form of legislation, however, did not exclude consideration of the cost of living in determining minimum wages; and indirectly recognised it as a factor.

When the United States Supreme Court in 1937 validated the Washington State minimum-wage law, which is based on the cost of living, there was a return to the earlier type of legislation. Some of the " fair-wage " laws were amended to include a reference to the cost of living. The laws subsequently enacted have either mentioned both factors, as in the case of the Pennsylvania and Kentucky laws and the new Arizona law; or have been based directly on the cost of living, as is the case with the Oklahoma and Louisiana laws. The National Consumers' League standard draft for minimum-wage legislation has been revised to include the cost of living as well as the fair-wage basis.

The great majority of minimum-wage laws now in effect include the cost of living as one of the factors to be taken into account in determining the minimum wage. Of the 23 jurisdictions with " flexible " minimum-wage laws twelve[2] have laws based directly on the cost of living, while six combine the cost of living and the " fair-wage " basis. In the five laws placing primary emphasis on the fair value of services rendered, a reference to the cost of living is included in the definition of an " oppressive " wage. Of the four " flat-rate " laws, one, that of Arkansas, provides for adjustment of the minimum rate to meet changes in the cost of living.

(b) " *Fair-Wage* " *basis.* — The " fair-wage " laws represented an attempt to establish a basis for minimum-wage legislation which would be held constitutional by the United States Supreme Court. A forerunner of this type of legislation was the Wisconsin wage law for women enacted in 1925. This prohibited the payment

[1] This law was made valid again in 1937. See p. 224 below.

[2] California, Colorado, District of Columbia, Kansas, Louisiana, Minnesota, North Dakota, Oklahoma, Oregon, Utah, Washington, Wisconsin.

of an " oppressive " wage to an adult female employee and defined such a wage as " any wage lower than a reasonable or adequate compensation for the services rendered ".

A standard bill for minimum fair-wage legislation was drafted by the National Consumers' League in 1933. This defined a " fair wage " as one " fairly and reasonably commensurate with the value of service or class of service rendered ". It defined an " oppressive and unreasonable wage " as one " which is both less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health ". Of the seven minimum-wage laws enacted in 1933, six, were of the " fair-wage " type based on the standard bill sponsored by the National Consumers' League. The seventh law, that of Utah, was of the " cost-of-living " type.

The " fair-wage " laws include as factors to be weighed in reaching the minimum rate, a fair return for the work performed, and the wages paid for similar work by employers who voluntarily maintain minimum fair-wage standards. Wage boards in reaching their determinations are authorised to take into account " all relevant circumstances affecting the value of the service or class of service rendered . . . "

This form of minimum-wage legislation combines features of the early " recommendatory " wage laws and of the modern " mandatory " laws. The wage orders when first entered are " directory " for a specified period — usually three months. During that time, non-compliance is punishable by publication of the names of the firms that fail or refuse to pay the minimum rates The orders do not automatically become " mandatory ". At the end of the specified period, the administrative agency —customarily the Commissioner of Labor — may, at its discretion, after a public hearing make the orders " mandatory ".

Of the 27 minimum-wage laws[1] in effect five are primarily of the " fair-wage " type. These are the laws of Connecticut, New Hampshire, New Jersey, Ohio and Rhode Island. In six other States — Arizona, Illinois, Kentucky, Massachusetts, New York and Pennsylvania — the cost of living as well as the value of services rendered is taken into account. The present trend in minimum-wage legislation, as exemplified by the measures currently introduced in the State legislatures, appears to favour such combined bases for the determination of minimum-wage rates.

[1] See table I.

Administration

The administration of minimum-wage laws is usually vested in some agency of the State connected with the enforcement of the general labour laws, such as the State Department of Labor or Industrial Commission. The 1938 draft "of the standard minimum-wage bill" sponsored by the National Consumers' League provides for administration by a minimum-wage division in the Department of Labor under the Industrial Commissioner and in the immediate charge of a minimum-wage director. The majority of States with fair-wage laws have some such form of administration.

The early minimum-wage laws were for the most part administered by independent commissions. These were frequently tripartite bodies with representation of the various interests involved—employers, employees and the public. With the trend toward consolidation of State Departments, the functions of the Minimum-Wage Commissions were in general transferred to the State Labor Department or other service charged with administering and enforcing the labour laws.

The District of Columbia still retains the independent commission —a Minimum-Wage Board appointed by the District Commissioners and charged with the sole function of administering and enforcing the minimum-wage law for the District. Of the other 26 laws, 11 come under Industrial, Labor or Welfare Commissions[1]. In the remaining States, administration is under the Commissioner of Labor or other official at the head of the Labor Department, usually with a separate Division for minimum-wage work in charge of a director, deputy or superintendent. In Rhode Island, for example, the immediate administration of the law is placed in the Division of Women and Children of the Department of Labor. In Illinois administration is vested in the Department of Labor under the immediate charge of a director and assistant director appointed by the Governor.

In States with "flexible" minimum-wage laws, broad powers are conferred upon the administrative agency which is authorised to establish the minimum-wage rates. In the four States with "inflexible" laws the rates, as previously noted, are fixed by statute. Here the function of the administrative body is merely to enforce the statutory rates.

[1] Arizona, Arkansas, California, Colorado, Kansas, Minnesota, Oklahoma, Oregon, Utah, Washington and Wisconsin. In Massachusetts administration w vested in the Commissioner of Labor and the three associate commissioners isho constitute the Minimum-Wage Commission.

The powers conferred upon the administrative agency in the States with " flexible " laws include the right to conduct wage investigations in any occupation covered by the law and to enter establishments and examine pay-rolls; the right to subpoena records, summon witnesses and take testimony under oath; authority to establish wage boards[1], appoint the members and formulate the rules of organisation and procedure; to issue wage orders based on the findings of the wage boards[2]; to carry out inspections to ascertain the degree of compliance with the wage orders; and to institute proceedings against violators[3]. The administrative authority is usually empowered to institute proceedings to collect back wages for employees paid less than the minimum rate; to conduct public hearings; and to hear complaints and render decisions thereon. Its functions are thus to a certain extent legislative and judicial as well as administrative. It is for this reason that a number of States have vested administration in a tripartite body on which the interests involved are represented.

Procedure for Wage Determination

All of the " flexible " laws provide definite machinery for fixing minimum-wage rates. The procedure under these laws, however, varies in detail. Usually it is provided that minimum-wage rates are to be fixed through the agency of wage boards, advisory boards, or wage conferences appointed for the specific occupation under consideration. In a few States the minimum-wage commission or other authority empowered to administer the law has power to fix the minimum rates itself without the assistance of a wage board. This is the exception, however, rather than the rule; and even in the States where this is possible, the administrative authority may, if it chooses, establish wage boards to recommend minimum rates.

In general, the procedure in establishing minimum rates for an occupation involves the following steps : survey of the occupation; establishment of a wage board; report by the wage board of its determinations; public hearing on the determination and issue of wage order. These steps will be discussed in turn.

[1] In one State—Kentucky—members of the wage boards are appointed by the Governor.

[2] In three States the Commission may set the rates directly. These are Colorado, Kansas, and Minnesota. In a number of States the administrative authority is authorised to implement the determinations of the wage board by administrative regulations intended to make the minimum standards effective.

[3] In the case of the fair-wage laws, the administrative authority has power to publish non-compliances under directory orders; and to make directory orders, that have been in effect for a specified time, mandatory.

(a) *Survey of occupation.* — The administrative authority either on its own initiative or on petition or complaint conducts an investigation into wages in the occupation under consideration. In the laws of some States the decision whether such an enquiry should be made is left solely to the discretion of the Commission, Commissioner, or other authority in charge of minimum-wage work. In other laws, the decision is left to the administrative body, which must, however, act if a specified number of persons request it to do so.

The nature of the wage survey is usually left to the discretion of the administrative body. It may consist of an examination of books and records of employers in the occupation, public hearings, and testimony of witnesses, or a combination of these methods. The enquiry may also include a study of the cost of living for working women, especially in the States where the minimum-wage rate is based on this factor.

(b) *Establishment of wage board.* — The second step is the establishment of a wage board or conference for the occupation under consideration. The members of such a board are in general appointed by the administrative commission. If the enquiry reveals low wages in the occupation — either wages below the cost of living, in the case of laws based on this factor, or the payment of oppressive wages, in the case of the fair-wage laws — the commission is usually required to establish a wage board or conference to recommend minimum rates for the occupation [1]. The membership of such board or conference must include equal representation for employers and employees.

Under some laws, as in California, the size of the board is left to the determination of the State Commission. In other States the maximum size of the board is specified, as in New York, where the wage board is to be composed of " not more than three representatives of employers, an equal number of representatives of employees, and not more than three disinterested persons representing the public ". The Minnesota law specified both a maximum and a minimum number.

A few laws specifically require the inclusion of women in the membership of the wage boards. The Colorado law, for example, provides that at least one member of each group — employer, employee, and public representatives — must be a woman. The

[1] In the case of Colorado, Kansas and Minnesota, the commission may establish the rates directly.

Minnesota law requires that at least one-fifth of the membership of the board must be women and that the public group must contain at least one woman.

Some States provide that a representative of the administrative board or commission shall sit with the wage board or conference. This is the case in Arizona, California, the District of Columbia, North Dakota, Oklahoma, Oregon, Utah, and Washington.

A few States, such as Massachusetts, specify that the appointment of employer and employee representatives shall, so far as practicable, be made on the basis of nominations submitted by employers and employees in the occupation. In the majority of the States, the administrative authority is free to make appointments directly. That authority also, as a rule, is empowered to designate the chairman of the wage board, issue the rules of organisation and procedure for the board and supply it with data to aid in its work.

(c) *Determinations of wage board.* — The wage board has the results of the commission's wage study to assist it in its deliberations. It may supplement this information by further enquiry of its own. Usually the board prepares a budget for working women in the occupation. This is customary under the laws where the cost of living is a factor in determining minimum wages. The practice is not, however, confined to boards operating under such laws, as the " fair-wage " laws authorise the boards to " take into account all relevant circumstances affecting the value of service or class of service rendered ".

Under the " fair-wage " laws the boards have authority to subpoena records, summon witnesses, administer oaths, and take testimony. They are authorised to make findings as to the minimum wages suitable for employees in the occupation under consideration; that is, in general, for women and minors. They are usually authorised to recommend special rates below the minimum for minors and inexperienced workers if such differentiation is in their judgment advisable ; also special rates for different employments within the occupation considered and for different localities within the State.

In practically all of the States, wage boards are authorised to recommend minimum rates for both time and piece rate workers. Piece rate processes are usually covered by a general requirement in the wage orders that the rates shall be such as to yield at least the minimum for full-time employment and a proportionate amount for part-time employment. In the case of a number of laws,

including the majority of the " fair-wage " measures, rates for overtime and for part-time work may be included in the orders.

The more recent laws specify a time-limit within which a wage board must submit its report to the administrative body. Under the " fair-wage " laws this is usually sixty days. Some of the earlier laws made no provision in this respect, leaving the matter to rules of organisation and procedure adopted by the minimum-wage commission. In case a board fails to reach agreement or submit its report within the specified time, the administrative authority may form a new wage board to consider the matter.

Determinations of the wage board are not binding upon the administrative authority. That authority may accept or reject the report of the board or may refer it back to the wage board for further consideration, or may form a new wage board for that purpose.

(d) *Public hearing.* — If the report is accepted by the administrative authority, a public hearing must be held for the purpose of receiving suggestions or objections with regard to the determinations of the wage board. After the public hearing the administrative agency may finally approve or disapprove the report. The recent laws require action to be taken within a specified time, such as 10 days. Under the Kentucky law, if the commissioner fails to act within this period he is deemed to have approved the report.

Loop-holes in some of the earlier laws are closed by the requirement in the more recent measures that in case of disapproval of the wage board's recommendations, the administrative body must re-submit the matter to the same wage board or to a new wage board.

(e) *Issue of wage order.* — If the determinations of a wage board are finally approved a wage order or decree must be issued for the occupation. In the case of the laws based primarily on the cost of living such wage order is " mandatory " from the date it becomes effective. Under the " fair-wage " laws, the wage orders when first issued are " directory " for a specified period, which varies in different States from 60 days to 9 months. At the end of this time the administrative authority may make the order " mandatory " if the maintenance of the fair-wage standards fixed is threatened by non-compliance. Such action, however, may be taken only after a public hearing.

In the case of the " fair-wage " laws, the wage board's determinations may be supplemented by administrative regulations added by the administrative authority or by that authority in co-

operation with the wage board. These regulations cover such matters as provisions for learners and apprentices, the proportion of workers in an establishment that may be so classed; the relation of piece rates to time rates ; deductions for services supplied by the employer ; the number of hours constituting full-time work, and the special rates for part-time and for overtime employment.

(f) *Rates below the minimum.* — Practically all of the minimum-wage laws, including all of the " flexible " and most of the " inflexible " measures, authorise the establishment of rates below the minimum for minors and apprentices and for handicapped employees. Usually the wage board is authorised to recommend special rates below the minimum in the case of beginners and minors; while the administrative authority — the Minimum-Wage Commission or the Commissioner charged with the administration of the law — is responsible for the issue in individual cases of special licences to handicapped workers.

This authorisation for exemption from the minimum rate is safeguarded by provisions either in the law itself or in the wage order or in the administrative regulations which implement the order. Under some laws the special licences may be issued for periods to be determined by the administrative agency. Two States — Colorado and Minnesota — specify that the number of special licences issued to employees in a given establishment must not exceed one-tenth of the total number of employees in the establishment. Where special rates are fixed for apprentices, the period of apprenticeship may be defined in the wage orders.

(g) *Revision of orders.* — Wage orders may be revised by the administrative body, usually through the agency of a wage board. The standard Minimum-Wage Bill provides that the orders may be revised after they have been in operation for a specified time, such as one year; and this provision is embodied in the laws of a number of the States. The Kentucky law, however, permits the Commissioner of Labor on his own initiative or on petition of 50 or more residents of the State to arrange for revision of the wage orders at any time.

In the case of revision of mandatory wage orders under the " fair-wage " laws, the administrative authority has power to determine to what extent the new order shall be " directory " and to what extent it shall be " mandatory ". Administrative regulations may be modified by the administrative authority without reference

to a wage board. A hearing, however, must be held on the proposed changes before they are adopted.

(h) *Court review.* — In all of the States with " flexible " laws appeals may be made to the Courts against minimum-wage orders or rulings. The provisions thus made for judicial review vary widely. Some of the early statutes, and the majority of those of the " fair-wage " type, limit such review to questions of law, making the decisions of the administrative authority final as to questions of fact. In some cases appeals may be made on other grounds. Thus the Massachusetts law permits general review by the Court of any decision of the Commissioner, the setting aside of the decisions or the referring of the issue back for further consideration. The Kentucky law limits the right of review to determining whether : " (1) The commissioner or director acted without or in excess of his powers; (2) the order or decision is procured by fraud; (3) the order or decision is not in conformity to the provisions of this Act; (4) if findings of fact are at issue, whether such findings of fact support the order or decision ".

Procedure for Application of Orders

After minimum-wage orders have been issued, the responsibility for supervision of their application and enforcement rests with the administrative authority. Certain provisions to facilitate this work are included in the various minimum-wage laws. Employers, for example, are required to post in a conspicuous place the notices of the administrative authority giving the provisions of the orders applicable to their employees.

To facilitate inspection, employers are required to keep specified records regarding their women and minor employees. Such records in general include the names of the employees with their scheduled rates, earnings, and hours of employment; the age of minors and the length of experience of employees receiving below the minimum rate, in cases where special rates are established for beginners and minors. These records must be open to examination by the administrative body and its authorised agents.

In the case of " fair-wage " laws the wage orders, as previously noted, are " directory " or recommendatory for an initial period. This is intended to be largely a period of probation and adjustment to permit the employer to become acquainted with the provisions of the order. It is also a period of educational effort on the part of the administrative authority. When adjustments cannot be

effected through the ordinary procedure of inspection, re-inspection and interview, the administrative authority may publish the names of the non-complying firms. Such action is optional and not mandatory. It is also optional with the administrative authority to make directory orders mandatory after the initial period.

In the case of laws based on the cost of living, all of which are now mandatory, non-compliance with the minimum rates established carries a direct penalty which, in case of conviction, is imposed by the courts.

Under most of the minimum-wage laws, the administrative authority is authorised to collect back wages for employees who are paid less than the minimum rate. In some States, such as Washington, however, civil action on the part of the employee alone is specified.

(a) *Penalties.* — Under the majority of the minimum-wage laws, the penalty for non-compliance with mandatory wage orders is either fine or imprisonment, or both. A few States with laws of the early type limit their penalties to a fine[1]. The Washington State law, for example, makes failure to pay the minimum rates a misdemeanour punishable by a fine of not less than $25 nor more than $100 for each offence.

The recent laws provide more stringent penalties for non-compliance. The Massachusetts law establishes as penalty for a violation of this nature a fine of not less than $50 nor more than $100, or imprisonment for not less than 10 days nor more than 90 days, or both fine and imprisonment. A frequent provision in the penalty section of the minimum-wage laws is that each employee who is paid below the minimum rate and each day that an employee is so paid shall constitute a separate violation.

The amount of fine and length of jail sentence that may be imposed vary in different States. The lowest fine provided in any of the statutes is that in the Puerto Rico law, where violations are punishable by fines ranging from a minimum of $5 to a maximum of $50. The highest is that in the Colorado statute, which provides a penalty of not less than $200 and not more than $1,000 for discharge or discrimination against an employee. The length of prison sentence that may be imposed on violators ranges from not more than 30 days under the South Dakota law to not less than 10 days and not more than 3 months under the District of Columbia law.

[1] Arkansas, Kansas, Oklahoma, Puerto Rico, Washington, and Wisconsin.

Other penalties besides those for failure to pay the minimum rate required are incorporated in all of the " flexible " wage laws. These include penalties for discharge or discrimination against employees for activities connected with wage investigations and the establishment of wage boards; and penalties for failure to keep the records required, to permit their inspection, or to post the notices of the administrative authority. Penal provisions for violations of this nature are incorporated in the minimum " fair-wage " laws of the various States.

Application and Enforcement

The practical application of minimum-wage legislation is represented by the minimum rates established in the various States for the protection of the employees to whom the laws extend. As previously noted, in all except four of the twenty-seven jurisdictions with minimum-wage laws now in effect, the minimum rates are established, not by the law itself, but by the State body that administers the law, usually operating through the agency of a wage board or conference.

Occupations and Industries covered

In the case of the States with " flat-rate " or " statutory " laws, the occupations covered by the law and those covered by the minimum-wage rates are the same. In the case of the States with " flexible " laws, it is not until the administrative authority has issued a wage order for a particular occupation in the group that may be covered that minimum-wage rates apply.

The employments actually covered by minimum-wage rates in effect to July 1938 are shown in table II. The scope here ranges from " any occupation " in several States to such minor employments as " cherry stemming and pitting " and " nut cracking and sorting " in others. In addition to the States with " statutory " rates applying to practically all occupations, a few States with " flexible " laws have issued wage orders of a general nature covering practically all the employments to which the laws apply. This is the case in Minnesota and in Wisconsin [1]. It is also the case in Oregon and Washington with regard to minors.

[1] Wisconsin in addition to general orders has issued orders for certain specific employments, such as canning and domestic service.

TABLE II — MINIMUM WAGE ORDERS IN EFFECT IN THE UNITED STATES, JULY 1938

Occupations or industries covered and jurisdictions represented

All occupations : Arkansas*[1], Minnesota**, Nevada*[2], Oregon[3], Puerto Rico*[4], South Dakota*[5], Washington[6], Wisconsin.
Apartment house : Washington.
Automotive : Oklahoma**.
Beauty culture : Illinois, New Hampshire, Oregon[7], Washington.
Boot and shoe cut stock and findings : Massachusetts.
Bread and other bakery products : Massachusetts.
Brush : Massachusetts.
Candy : Massachussetts.
Canning, preserving and minor lines of confectionery : California[8], Illinois[9], Massachusetts[10], Washington[11].
Cherry stemming and pitting, nut cracking and sorting : California[12], Oregon[13].
Druggists' preparations : Massachusetts[14].
Electrical equipment and supplies : Massachusetts.
Fruit and vegetable packing : California, Oregon[15], Washington[16].
Fruit and vegetable canning : California, Oregon[15], Wisconsin[17].
Hotel and restaurant : California, New Hampshire[18], New York[19], Ohio[19], Oklahoma[20].
Hospital : Oregon.
Jewellery and related lines : Massachusetts, Rhode Island.
Knit goods and hosiery : Massachusetts[21], New Hampshire.
Lace industry (home work) : Connecticut.
Laundry : Colorado, Connecticut, Illinois, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma.
Laundry, dry cleaning and dyeing : California[22], District of Columbia, Massachusetts[22], Ohio[23], Oklahoma**[23], Oregon, Rhode Island[22], Washington.
Manufacturing : California, North Dakota, Oregon, Washington.
Mercantile : California, District of Columbia[24], Massachusetts[24], North Dakota, Oklahoma**[24], Oregon, Utah**, Washington.
Men's clothing and raincoats : Massachusetts.
Men's furnishings : Connecticut[25], Massachusetts.
Millinery : Massachusetts.
Needlecraft, clothing and accessories : Massachusetts[26], New Hampshire[27], Oregon[28], Rhode Island[29].

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* Wage fixed in law. — ** Action instituted to restrain administrative authority from enforcing orders. — [1] Manufacturing, mechanical or mercantile establishment, laundry, express or transportation company, hotel, restaurant, eating place, bank, building and loan association, insurance company, finance or credit business, company supplying water or electricity, work in elevators. *Exceptions* : cotton factories, gathering of fruit or farm products. — [2] Private employment. *Exceptions* : Domestic service. — [3] In case of minors only. — [4] Industrial occupations, commercial or public service undertakings. *Exceptions* : Agriculture and agricultural industries. — [5] Any factory, workshop, mechanical or mercantile establishment, laundry, hotel, restaurant or packing house. — [6] Minors under 18 years in various industries and occupations. *Exceptions* : Public housekeeping, telephone or telegraph messengers in small communities. — [7] Beauty parlour or barber shop. — [8] Fish canning. — [9] Macaroni, spaghetti and noodles. — [10] Includes miscellaneous food preparations. — [11] Canning, including fruits, vegetables, fish, shell fish, dog foods or any other products for food purposes. — [12] Nut cracking and sorting. — [13] Cherry stemming and pitting. — [14] Includes proprietary medicines and chemical compounds. — [15] Fruit and vegetable packing, drying, preserving or canning. — [16] Fresh fruit packing, vegetable packing and dried fruit industries. — [17] Pea, bean, cherry, corn, spinach, strawberry, or tomato canning. — [18] Restaurant only. — [19] Establishments that prepare and offer food for consumption either on the premises or by catering or curb service. — [20] Oklahoma has separate wage orders for hotels and restaurants. — [21] Knit goods. — [22] Laundry and dry cleaning. — [23] Cleaning and dyeing. — [24] Retail trade. — [25] Men's single pants. — [26] Corsets. — [27] Clothing and accessories. — [28] Needlecraft. — [29] Wearing apparel and allied occupations. —

Office, general and professional : California, Oregon[30].
Paper box : Massachusetts.
Personal service : Oregon.
Pocket book and leather goods : Massachusetts.
Public housekeeping : District of Columbia, Massachusetts[31], North Dakota, Oregon, Washington.
Stationery goods and envelopes : Massachusetts.
Telephone and telegraph : North Dakota[32], Oregon.
Toys, games and sporting goods : Massachusetts.
Unclassified occupations : California[33].
Wholesaling and distributing : Oklahoma**.
Women's clothing : Massachusetts.
Women's and children's underwear, neckwear and cotton garments : Illinois[34], Massachusetts.

[30] Office occupations. — [31] Office and other building cleaning. — [32] Telephone. — [33] All employments not included in other orders. *Exceptions* : Telephone and telegraph industries, professional occupations, domestic service, harvesting, curing or drying of fruits and vegetables. — [34] Wash dresses.

The occupations which have been selected for minimum-wage action in the various States are those in which a large proportion of the employees are women. They also include the employments which are characterised by low wages. Although a large number of individual industries are represented, in general those covered by minimum-wage rates fall into five major classifications : manufacturing; laundry and dry-cleaning; canning, preserving and packing; commercial occupations and service trades. There is striking diversity among the States with respect both to the number and variety of occupations and the number of workers covered by minimum-wage rates. The number of wage orders issued by a State, however, does not tell the entire story, as the scope of the orders in different States varies widely. A single order covering all manufacturing employments in one State may reach a larger number of workers than do the wage orders for as many separate industries in another State.

Other factors to be kept in mind in this connection are the length of time the different State laws have been in operation and the effect of Court decisions upon their activities. In the case of the laws that were invalidated, the wage orders issued before such action cease to be effective. In a number of instances where this happened the laws have been validated or re-enacted only recently, and no new wage orders have as yet been issued. The States with the largest number of wage orders to their credit are those with laws that have been in effect longest and that have experienced the greatest freedom from court action. This is the case, for example, in California, Massachusetts, Oregon and Washington.

Even when these factors are taken into account there is still wide diversity in scope in different States. Massachusetts, for example, has directed its attention largely to manufacturing industries, whereas California has emphasised the canning and packing industries. Some States have brought all forms of manufacturing under a single wage order; others have issued a separate order for each specific industry considered. Some of the variations can be explained by the occupational or industrial characteristics of the various States. To a large extent, however, they are due to the fact that until quite recently each State has acted independently of other States in its minimum-wage work.

Influences that within recent years have tended to promote greater uniformity are the effect of the codes adopted under the National Industrial Recovery Act, the minimum-wage compact, and the national conferences of State minimum-wage administrators arranged by the United States Department of Labor. If the date of promulgation of the wage orders were given, it would show a closer correspondence between those more recently issued.

One result of the codes adopted under that Act and of the conferences of minimum-wage executives that started soon after its passage was to turn the attention of the States to intrastate employments which are largely represented by the service trades. At the national conferences of the State minimum-wage administrators convened by the Secretary of Labor, the importance of uniformity in action and procedure has been stressed. As a result of these conferences, a definite attempt has been made in the different States to select at any given time the same occupation for wage board action.

Range of Minimum-Wage Rates Fixed

Even greater diversity appears in the minimum rates established by the wage orders in the different States than in the occupations covered. As illustration of this diversity, minimum-wage rates for manufacturing industries in the various States in effect in July 1938 are shown in table III.

The rates fixed under the "inflexible" laws vary from $6 a week in Puerto Rico to $18 a week in Nevada. The Arkansas law establishes a flat rate minimum of $1.25 a day. The South Dakota law fixes a minimum rate of $12 a week. In the case of States with "flexible" laws there is even wider variation. Ohio has a minimum rate of 13 cents an hour or $6.25 a week for food industries in rural sections of the State. Contrasted with this is the

TABLE III. — MINIMUM WAGE RATES FOR MANUFACTURING INDUSTRIES
In effect in the United States, July 1938

State	Categories of workers affected and range of rates			
	Experienced		Inexperienced	
	Adults	Minors	Adults	Minors
Arkansas (A).				
Manufacturing	$1.25 a day (B)[1]		Less than 6 months (B)[1] $1.00 a day	
California :				
Manufacturing	$16.00 a week Part time : 40c. an hour	$16 00 week 30c. an hour	First 4 weeks : $9.00 a week Second 4 weeks : $10.00 a week Third 4 weeks : $12.00 a week Fourth 4 weeks : $14.00 a week	
	Messengers and errand boys :	$12.00 week; 25c. hour		$10.56 week 22c. hour
Connecticut (C) :				
Lace industry, thread drawing	$13.00 week : 12c. per gross yards 18c per gross yards	$13.00 week : 1 thread 2 threads	No specification as to experience	
Men's single pants	35c. hour	35c. hour	First 3 months : 20c. hour Second 3 months : 25c. hour	
Illinois :				
Wash dress industry	$14 80 week[2] 37c. hour		First 8 weeks : $7.40 a week Second 8 weeks : $11.10 a week	
Macaroni, spaghetti and noodle industry	35c. hour *overtime*[3] : $46\frac{2}{3}$c. hour *part time*[4] : $38\frac{1}{2}$c. hour		Same as for experienced	
Massachusetts :				
Boot and shoe cut stock and findings	$14.70 week		Less than 3 months : $12.00 week	
Bread and other bakery products	$14 00 (cities of over 100,000) $13.00 (cities of 25,000-100,000) $12 00 (cities under 25,000)		$14 00 (cities of over 100,000) $13 00 (cities of 25,000-100,000) $12.00 (cities under 25,000)	
Brush	32 5c. hour		First 6 months : 24c. hour	
Candy	$14.40 week 30c. hour		Less than 6 months : $9 00 week; 20c. hour 6 months to one year : $12 00 week, 25c. hour	
Corset	$14.00 week $29\frac{1}{6}$c. hour		Less than one year : $10.00 week; $20\frac{5}{6}$c. hour[5]	
Druggists' preparations, proprietary medicines and chemical compounds	35c. hour		Less than 6 months : 25c. hour 6 months to one year : 30c. hour	
Electrical equipment and supplies	35c. hour		First 6 months : 30c. hour (3 months in one factory)	
Jewellery and related lines incl. watches, clocks and optical goods	$14.40 week (B)		First 6 months : $12.00 week (B)[6]	
Knit goods	$13.75 week (B)		First 40 weeks : $8.50 week (B)	
Men's clothing and raincoats; men's & boys' wool clothing	40c. hour		First 3 months : $9.00 week 3 to 9 months : $12 00 week	
Raincoats	$14 50 week		3 to 9 months : $12.00 week	
Men's furnishings	$14.00 week 35c. hour		Less than 3 months : $8.50 week; 21.25c. hour 3 to 6 months : $10.00 week; 25c. hour	
Millinery	$13.00 week (B)		$6.00 week (B)	
Paper box	$13.50 week (B)		$10 00 (over 18) (B) : $8.50 (under 18) (B)	
Pocketbook and leather goods	35c. hour[7] $14.00 week		Less than 3 months : $26\frac{1}{4}$c. hour[7] ; $10.50 week	
Stationery goods and envelopes	$14.50 week[8] 33c. hour	$13.75 week[9] 31.25c. hour	$11.50 week Less than 9 months : 26.25c. hour	
Toys, games and sporting goods	$14.00 week 35c. hour		1 to 6 weeks : $11.00 week; 27.5c. hour 6 weeks to one year; $13.00 week; 32.5c. hour	

State	Categories of workers affected and range of rates			
	Experienced		Inexperienced	
	Adults	Minors	Adults	Minors
Massachusetts :				
Women's clothing....	35c. hour		For 36 weeks ; 25c. hour	
Women's and children's underwear, neckwear and cotton garments.....	$14.00 week 35c. hour		Less than 3 months : $8.50 week : 21.25c. hour 3 to 6 months : $10.00 week; 25 c. hour	
	Places having 50,000 or more population			
Minnesota :	11		8	11
Any occupation.....	$15.00 week 36c. hour[10]	$12.00 week 29c. hour[10]	First 3 months . $12.00 week; 29c. hour[10] Second 3 months : $13.50 week; 32c. hour[10]	$12.00 week; 29c. hour[10]
	Places having 5,000-50,000 population.			
	11		8	11
	$13.50 week 30c. hour[10]	$10.80 week 24c. hour[10]	First 3 months : $10.80 week; 24c. hour[10] Second 3 months : $12.15 week; 27c. hour[10]	$10.80 week; 24c. hour[10]
	Places having 3,000-5,000 population.			
	11		8	11
	$12.00 week 27c. hour[10]	$9.60 week 22c. hour[10]	First 3 months : $9.60 week; 22c. hour[10] Second 3 months : $10.80 week; 24c. hour[10]	$9.60 week; 22c. hour[10]
	Places having under 3,000 population.			
	11		8	11
	$11.00 week 24c. hour[10]	$8.80 week 19c. hour[10]	First 3 months : $8.80 week; 19c hour[10] Second 3 months : $9.90 week; 22c. hour[10]	$8.80 week; 19c. hour[10]
New Hampshire :				
Clothing and accessories; winter outfits and men's clothing	25c. hour		15c. hour	
Hdkfs., aprons, gloves, house dresses, etc	20c. hour		15c hour	
Hosiery and knit goods.	27 5c. hour		Less than 6 months : 15c. hour	
North Dakota :				
Manufacturing :				
Biscuit and candy.	$14 00 week $60.67 month		First 3 months : $9.00 week; $39 00 month Second 3 months : $10.50 week, $45.50 month Third 3 months : $12.00 week; $52.00 month	
Bookbinding and job press feeding	$14.00 week $60 67 month		First 3 months : $9.00 week; $39.00 month Second 3 months : $10 50 week; $45 50 month Third 3 months : $12.00 week; $52.00 month Fourth 3 months : $13.00 week; $56.33 month	
All other manufacturing..... ...	$14.00 week *Part time .* 1/40 weekly minimum an hour[12] 1/48 weekly minimum an hour[13]		To be determined by Department of Agriculture and Labor in conference with employers and employees.	
Nevada (A) :				
Private employment (except domestic)..	$3 a day (B) $18 a week[14]		*Probationary 3-month period* Minimum rates not compulsory	
Oregon :				
Needlecraft.....	30c. hour	15	First 4 months : 22c. hour Second 4 months : 25c. hour Third 4 months : 27.5c. hour	15
Manufacturing.....	30c. hour	15	First 4 months : 22c. hour Second 4 months : 25c. hour Third 4 months : 27.5c. hour	15
Any occupation.....		14 years-20c. hour 15 years-25c. hour 16-17 years[16]		14 years-20c. hour 15 years-25c. hour 16-17 years[16]

State	Categories of workers affected and range of rates			
	Experienced		Inexperienced	
	Adults	Minors	Adults	Minors
Puerto Rico :	Females (after 3 weeks)			
Industrial occupations (A).....	$6.00 week[8]	$4.00 week[9]		
Rhode Island :				
Jewellery.....	30c. hour		30c. hour	
Wearing apparel and allied occupations..	35c. hour		First 240 hours : 20c. hour Next 240 hours : 25c. hour	
South Dakota (A) :				
Any factory, workshop, mechanical establishment.....	$12.00[17]			
Washington :				
Manufacturing.....	$13.20 week	$9.00 week[9]	$9.00 week	$9.00 week[9]
Wisconsin :				
Any industry.....	17 years and over 22½c. hour (cities over 5,000) 20c. hour (cities under 5,000)	14 and under 17 yrs 18c. hour [18]	16c. hour	14 and under 17 yr 16c. hour

(A) Wage fixed in law. — (B) Applies to women and girls only. — (C) Home workers. — [1] 1½ for overtime. — [2] Overtime 1.1. — [3] Over 40 hours a week. — [4] Less than 40 hours a week. — [5] Workers under 17. — [6] Under 20 years. — [7] Hourly rate and rate for over 40 to 48 hours a week. — [8] 18 years and over. — [9] Under 18 years. — [10] Over 48 and under 36 hours a week. — [11] 16 to 18 years. — [12] 35 to 40 hours a week. — [13] 34 or less a week. — [14] 1½ overtime — over 8 hours a day; 48 to 56 a week; 7 days a week. — [15] Wage order for minors covers any occupation. Wage rates. 14 years — 20c. hour. — [16] Apprentice rates fixed for specific occupations. — [17] Experienced women and girls over 14 years. — [18] Minors producing same output as employees in higher wage classification must be paid minimum rate for such class.

District of Columbia rate of $18 a week for beauty shops. Oklahoma establishes minimum rates of $25 to $32 a week for registered pharmacists. This is the highest minimum rate fixed under any of the State laws.

To a certain extent these variations may be ascribed to geographic differences or to the special requirements of different occupations. A saleswoman in a mercantile establishment, for example, may require a more liberal allowance for clothes and personal appearance than a laundry worker. A factory operative in a northern mill may have a higher cost of living and consequently may require a somewhat higher minimum rate than an operative in similar employment in the South. In part, the variation in minimum rates for different occupations within the same State may result from pre-existing differences in wage levels in different employments. To a large extent, however, the diversities are due to the varying viewpoints of the wage boards, to the relative bargaining strength of employer-employee members of the boards, and to the attitude of the representatives of the public.

The wage board method is regarded by students of the subject

as the most satisfactory method of determining minimum-wage rates that has been tried in the United States. It gives recognition to the groups directly affected and it permits adjustments to deal with conditions peculiar to an industry or locality. It is not, however, without its drawbacks and problems, of which certain of the variations in the provisions of wage orders are among the most conspicuous.

This diversity in the content of wage orders is further illustrated in their special provisions : the inclusion or exclusion of special rates for minors and inexperienced workers; the rates for such employees, if included; the length of the apprenticeship period; the number of hours that constitute full-time employment, and the arrangements for overtime and part-time compensation.

Number of Workers Covered

One indication of the extent of application of minimum-wage legislation is the number of employees afforded protection by the laws or by the orders issued under them. An estimate of this number is given in table IV which shows the approximate number of women covered by minimum-wage rates in the United States in July 1938.

At the time the 1930 Census was taken there were in round numbers six and three-quarter million women [1] gainfully employed in the twenty-six jurisdictions in the Continental [2] United States that now have minimum-wage laws. A conservative estimate of the number for whom minimum-wage rates could be established under the existing legislation in these States is four million [3]. This number is reached by subtracting from the entire number of women gainfully employed those in business for themselves, those in managerial positions, those in professions and those specifically excluded from the laws — mainly women employed in domestic service and farm labour. Of the number who might thus be covered, about one million, or rather less than one-quarter of the total, have actually been brought under minimum-wage rates.

The number actually covered and the proportion this represents of those who might be covered varies widely in the different States. In the States with " flat-rate " laws the number covered is auto-

[1] Females 10 years of age and over.
[2] The Census figures do not include Puerto Rico.
[3] Mary ANDERSON : Director, U.S. Women's Bureau : " A Year of the Minimum Wage ", in *American Federationist*, April 1938.

matically 100 per cent., illustrating one advantage which this type of legislation appears to have over the " flexible " laws. In some of the States with " flexible " laws no minimum-wage rates have as yet been fixed; and in some of the others, for example, Connecticut, New Jersey and Colorado, less than 10 per cent. of the eligible women workers have been covered by wage orders.

In considering this situation in different States, the recentness of enactment or validation of the laws should be kept in mind. In general, the States that have had laws in effective operation for the longest time have a large proportion of their eligible women employees covered by minimum wages. North Dakota has nearly two-thirds so covered (58.3 per cent.); Oregon has more than three-quarters (77.6 per cent.); while California has considerably above nine-tenths covered (95.9 per cent.).

That the States with " flexible " laws are not necessarily placed at a disadvantage as regards the percentage covered by minimum-wage rates, as compared with the percentage covered in States with " flat-rate " laws, is evidenced by the fact that in Wisconsin, one of the States with the early type of legislation, the percentage covered is 100. This is true also of Minnesota, whose minimum-wage law was validated as recently as 1937. Since that date, the State, through a general wage order, has brought all of its eligible women employees under minimum-wage rates [1].

Even the States that follow the more meticulous procedure of establishing separate wage boards for individual occupations are not precluded from attaining a fairly broad scope within a reasonable time. The District of Columbia, whose law was validated in 1937, has since brought approximately 40 per cent. of the eligible women employees in the District under wage orders.

From this it would appear that there are a number of explanations for the existing extraordinary increase in the percentage covered by minimum-wage rates, which ranges from nothing in some States to 100 per cent. in others. The nature of the law, the length of time in operation, the freedom or lack of freedom from adverse court decisions — all are important factors in this connection. After these factors have been weighed, however, it must be recognised that in some measure the differences are due, not to external factors, but to differences in administration in the several States.

[1] Action has been instituted to restrain the Commission from enforcing the wage order.

TABLE IV. — APPROXIMATE NUMBER OF WOMEN COVERED BY MINIMUM WAGE ORDERS IN THE UNITED STATES TO JULY 1938[1]

Jurisdiction	Women gainfully employed	Women covered by law[2]	Women covered by wage orders[3]	Percentage of those covered by law who are covered by wage orders[3]
				Per cent.
Total	6,930,720	4,214,335	970,617	23.0
Arizona	29,971	14,121	[4]	0.0[5]
Arkansas	119,193	9,835	9,835[5]	100.0
California	557,354	380,472	365,014	95.9
Colorado	80,993	51,417	1,844	3.6
Connecticut	178,007	118,746	2,536	2.1
District of Columbia	88,825	27,753	10,578	38.1
Illinois	715,468	461,426	25,960	5.6
Kansas	119,160	73,276	[4]	0.0
Kentucky	146,678	59,610	[4]	0.0
Louisiana	191,420	53,059[6]	[4]	0.0
Massachusetts	528,999	356,857	84,455	23.7
Minnesota	200,965	102,311	102,311	100.0
Nevada	5,902	2,704	2,704[5]	100.0[5]
New Hampshire	49,956	31,926	2,685	8.4
New Jersey	416,512	268,157	6,679	2.5
New York	1,415,105	895,215	36,421	4.1
North Dakota	36,213	11,238	6,550	58.3
Ohio	539,606	327,400	34,767	10.6
Oklahoma	129,346	76,558	22,546	29.4
Oregon	81,142	54,396	42,234	77.6
Pennsylvania	803,892	503,630	[4]	0.0
Rhode Island	87,829	64,661	6,511	10.1
South Dakota	37,310	7,550	7,550[5]	100.0
Utah	28,984	19,466	3,221	16.5
Washington	126,676	86,799	40,464	46.6
Wisconsin	215,214	155,752	155,752	100.0

[1] Figures supplied by U.S. Women's Bureau, those for columns 2 and 3 composed from U.S. Census. The figures apply only to the Continental United States; Puerto Rico is omitted from the tabulation.
[2] All gainfully employed women except those who are owners of business or in managerial positions or engaged in professional service, those specifically exempted by law, mainly in private domestic service and agriculture.
[3] The numbers given are in some instances an underestimate due to the fact that there is no separate census classification for some occupations covered by wage orders in certain States.
[4] No wage orders to July 1938.
[5] Wage fixed in law, so actual and potential percentage covered the same.
[6] Law applies to municipalities of over 10,000 population.

Enforcement

The majority of the minimum-wage laws—including all of the "flexible" measures—contain provisions designed to assure effective administration and to prevent evasion of the wage determinations. These include, as previously noted, the right of enforcement officials to enter establishments employing persons covered by the law; the right to require employers to keep certain specified records regarding their women and minor employees,

and the right to require them to supply information regarding the wages paid to such employees. In addition to this is the right to require the posting of the provisions of minimum-wage orders in establishments affected by such orders. In most of the States failure to comply with these requirements renders the person responsible liable to a penalty, as does failure to pay the minimum rate of wages.

The effectiveness of enforcement depends not merely on the provisions in the laws but also on the funds and staff available for the work. There is wide variation in the arrangements made in this respect in different States. For reasons of space no detailed analysis of the situation can be attempted here[1]. It may be noted, however, that according to the reports of State minimum-wage administrators, in some instances no appropriation of funds has been made for inspection work; and that in other instances the amounts appropriated are regarded as inadequate to ensure effective enforcement. On the other hand, several States appear to have relatively liberal arrangements in the way of funds and staff[2].

With regard to the qualifications required of the inspectorate, although apparently no uniform standards have as yet been made effective throughout the various jurisdictions with minimum-wage laws, there is a possibility of a closer approach to uniformity as one of the results of the National Conferences of Minimum-Wage Administrators in co-operation with the United States Department of Labor[3]. Of the 27 jurisdictions with minimum-wage laws, 11, or less than one-half, had civil service regulations for their inspection personnel at the close of 1938[4].

Federal Regulation

As noted previously, only a few Federal measures have been passed containing provisions regarding minimum wages. Of

[1] For a more detailed account of the administration and enforcement of minimum-wage legislation in the United States, see article on the subject by Ethel M. Johnson in *International Labour Review*, Vol. XXXIX, No. 1, January 1939.

[2] Cf. U.S. Women's Bureau Chart, *op. cit.*

[3] These conferences are held in co-operation with the Women's Bureau of the U.S. Department of Labor. They customarily meet in connection with the National Conference of the States on Labor Legislation convened by the U.S. Secretary of Labor.

[4] Arkansas, Connecticut, Kentucky, California, Colorado, Illinois, Massachusetts, New Jersey, New York and Wisconsin. The District of Columbia has a form of municipal civil service.

the six measures of this nature enacted to July 1938, two were invalidated with respect to such provisions. These were the National Industrial Recovery Act and the Guffey Coal Act. The four remaining measures are the Public Contracts Act, the Merchant Marine Act, the Sugar Act, and the Fair Labor Standards Act.

The National Industrial Recovery Act

Although the National Industrial Recovery Act was a temporary emergency measure, and although the codes of fair competition adopted under that Act are no longer in effect, the measure having been held unconstitutional in its essential provisions even before the period for which it was intended had expired, the significance of the measure and its effect are such as to warrant mention[1].

The National Industrial Recovery Act was enacted on 16 June 1933 for a two-year period, with the proviso that it might be terminated earlier if the President should determine that the emergency which led to its adoption had come to an end. The Act authorised, among other things, the establishment, through codes of fair competition, of minimum wages for trades and industries throughout the country. During the time that the Act was in effect, practically all industrial employment was brought under minimum-wage rates. This was the first application of Federal minimum-wage regulation to men in private industry[2]. It was also the first application in the United States of minimum wages on a national scale, and it represented the most extensive experiment to date in this field.

The minimum-wage rates under this Act were formulated by trade groups representing separate industries and were incorporated with other labour and industrial standards in codes of fair competition. These codes became effective after approval by the President following a public hearing. Violations were covered by penal provisions. The industry for which a code was established assisted in its enforcement through representation on the Code Authority.

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[1] For the text of this Act and an account of its working up to 1934 reference may be made to INTERNATIONAL LABOUR OFFICE : *National Recovery Measures in the United States* (Geneva, 1933), and *Social and Economic Reconstruction in the United States* (Geneva, 1934).

[2] An earlier measure, the Bacon-Davis Act as amended (49 U.S. Stats. c. 825, 1011) requires contractors receiving contracts for construction work for the Federal Government in excess of $2,000 to pay the prevailing local wages for labourers and mechanics. This measure applies to men. Prevailing wage laws do not, however, come within the scope of the present study.

The President was empowered on his own initiative, after a public hearing, to prescribe codes for trades and industries where none had been established. A voluntary code, known as " The President's Re-employment Agreement ", was issued by the Administration to apply to all employments until separate codes could be set up for every industry. This prescribed in general a minimum rate of 40 cents an hour, or $14 a week. Codes based on this were established for industries that did not formulate codes of their own.

The Guffey Coal Act

After the invalidation of a crucial part of the National Industrial Recovery Act, many attempts were made to pass a similar measure. The Guffey Coal Act of August 1935 has been described as a " little N.R.A. " for the bituminous coal industry. This measure provided for setting up a code of fair competition for the soft coal industry with the requirement that code members must accept certain specified conditions as to labour. With regard to minimum wages, it was stipulated that these should be determined in each district by the producers of two-thirds of the tonnage of coal mined in that district and a majority of the employees. The minima so established were to be obligatory upon all code members in the district. This Act was invalidated with respect to its labour provisions in May 1936. The measure was in effect for too brief a period and its application was too limited for it to have much significance other than as an indication of the trend toward the regulation of wages under Federal legislation.

The Public Contracts Act

The Walsh-Healey Public Contracts Act of 1936 applies the principle of Federal regulation of wages to concerns doing business with the Government. This measure, approved on 30 June 1936 and effective on 28 September of that year, establishes minimum labour standards, including stipulations regarding the minimum wages which are to be incorporated in all Government contracts for materials, supplies, articles or equipment in excess of $10,000. Minimum wages are to be determined for each industry in question by the United States Secretary of Labor, who is charged with the administration and enforcement of the Act. The minimum wages fixed must not be less than the prevailing minimum wage for similar work in the locality.

The Merchant Marine Act

The Merchant Marine Act of 1936, a measure primarily intended to develop American shipping and commerce and provide for national defence, contains provision for the establishment of certain labour standards, including minimum wages for officers and crews of vessels receiving an " operating-differential subsidy "[1] from the Federal Government.

Administration of the Act is vested in the United States Maritime Commission. The Commission is empowered to make investigations concerning wage and working conditions for seamen and, after public hearings, to adopt minimum-wage scales and other labour standards. These minimum standards are to be incorporated in the contracts made by the Government with subsidised ships; payment of the subsidy is conditioned upon meeting the minimum-wage standards prescribed.

Acting under their statutory powers, the Maritime Commission, on 21 October 1937, adopted minimum-wage scales, minimum manning scales and standards for reasonable working conditions for employees on subsidised vessels[2].

The Sugar Act

The Sugar Act of 1937, although not primarily concerned with labour conditions, contains a provision regarding wage standards. This requires as one of the conditions for benefit payments to sugar producers that all farm labourers employed in the production, cultivation or harvesting of sugar beet or sugar cane shall be paid at rates not less than those determined by the Secretary of Agriculture to be fair and reasonable. The rates are to be fixed only after investigation, due notice and opportunity for public hearing. Variations in rates are permitted on the basis of differences in conditions in the various producing areas.

This part of the Act applies to the Continental United States and to the Territories of Hawaii and Puerto Rico. The measure became effective on 1 September 1937, and a number of wage determinations have been made under its provisions[3].

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[1] A subsidy intended to compensate for the difference in operating costs between American vessels and competing foreign vessels of similar construction and tonnage.

[2] See *Federal Register*, 28 October 1937.

[3] See *Federal Register*, 21 and 27 January, 25 February, 31 March, 6 April, and 6 and 8 July 1938.

The Fair Labor Standards Act

The Fair Labor Standards Act of 25 June 1938 is the first Federal measure of a permanent nature to establish minimum-wage standards for workers other than those in subsidised industries or in industries working under public contracts. This measure, which was to become effective on 24 October 1938, bears some resemblance to the labour sections of the National Industrial Recovery Act, since it provides for maximum hours of employment and the abolition of child labour, as well as the establishment of minimum wages.

Scope

The Act applies to employments in or affecting interstate commerce. It does not deal with purely intrastate activities. Certain industries such as agriculture, dairying and fishing, local retailing and retail and service establishments, the greater part of whose activities are in intrastate commerce, are specifically exempted from the application of the Act. In addition, certain classes of employees are exempted : these include executives, those engaged in professional services and employees such as railroad workers, seamen and interstate air pilots, who are subject to Federal regulations.

Administration

The administration of the Act is entrusted to the Department of Labor. Child labour provisions are to be administered by the Chief of the Children's Bureau. The wage and hour provisions are to be administered through the new Wage and Hour Division established in the Department of Labor under an administrator appointed by the President.

Method of Fixing Minimum Wages

For the occupations covered by the Act mandatory minimum wages of not less than 25 cents an hour are established during the first year of operation dating from 24 October 1938. For the six ensuing years the minimum rate for the entire country will be 30 cents an hour; and thereafter, that is, from October 1945, the mandatory minimum rate will be 40 cents an hour. Wages paid to an employee as defined in the Act include the reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities, if these are customarily furnished. The reasonable cost will be determined by the administrator.

Industry Committees

Variations within these mandatory statutory limits are made possible through the provision for industry committees to be set up by the administrator for each industry engaged in commerce or in the production of goods for commerce. These committees will be composed of equal numbers of representatives of employers and of employees in the industry and disinterested persons representing the public. One of the representatives of the public will serve as chairman. It will be the function of these committees to investigate conditions in the industries for which they are formed and to recommend to the administrator the highest minimum-wage rates which will not substantially curtail employment. Their objective will be the establishment of a universal minimum wage of 40 cents an hour in each industry subject to the Act as rapidly as is economically feasible without substantially reducing employment.

Variations, Exemptions, and Appeals

Certain variations are possible within an industry according to the class of work and according to competitive conditions as they are affected by transportation, living and production costs, prevailing union rates of wages, and the wages paid by employers in the industry who voluntarily maintain fair minimum-wage standards. It is specified that no minimum rate shall be fixed solely on a regional basis, and that no classification shall be made on the basis of age or sex.

The administrator is authorised to grant exemption certificates, limited as to the period of their effectiveness, in the case of learners, apprentices, and messengers; and in the case of persons whose earning capacity is impaired by age or physical or mental condition. He may also determine the limits as to the number and proportion of such certificates issued in a given establishment and the length of service required for apprentices or learners before they become eligible for the minimum rate.

Appeals from orders of the administrator may be taken to the Circuit Court of Appeals within 60 days after a minimum wage has been fixed for a particular industry. The Court has power to affirm, modify, or set aside an order. Its right of review, however, is limited to questions of law. Findings by the administrator on questions of fact will be held conclusive if supported by substantial evidence.

Penalties

Heavy penalties are fixed for violations of provisions of the Act. Persons convicted of violations are subject to a fine of not more than $10,000 or imprisonment for not more than six months or to both fine and imprisonment. The Act specifies that a prison sentence shall not be imposed for a first offence. In addition to being liable to this general penalty, an employer who violates the wage and hour provisions may be required to pay to the employees affected the amount of their unpaid wages and an additional equal amount as liquidated damages. He is also responsible for attorneys' fees for his employees and for the cost of the action.

This Act has been described as " perhaps the most important labor measure adopted in recent years, particularly since the invalidation by the United States Supreme Court of the National Industrial Recovery Act in 1935 "[1]. It will be noted that this measure had not become operative at the close of the period covered by this monograph.

Some Results of Minimum-Wage Legislation

It is not possible within the scope of the present study to attempt a first-hand enquiry into the effect of minimum-wage legislation in the United States, or to make any appraisal of its results in any individual State. All that is possible is to examine such evidence as is available in published reports and to summarise some of the conclusions drawn.

State Regulation

No comprehensive study of minimum-wage legislation in the United States has been made in recent years. The Women's Bureau of the United States Department of Labor has from time to time investigated the operation of minimum-wage laws in the various States. Some of the States with minimum-wage legislation have issued reports containing information regarding the general operation of the laws or the effect of separate wage orders. For the most part, however, the State officials, with small appropriations and limited staff, have been unable to attempt much beyond the

[1] *U.S. Monthly Labor Review*, July 1938, p. 107.

routine work involved in the administration and enforcement of the laws.

Attempts to estimate the effect of minimum-wage laws are also handicapped by the fact that few of the laws have had an opportunity for unhampered development. A number of the existing laws has been in effective operation for only a short time. Several had previously been invalidated by court action, the interval during which they remained inoperative ranging from one to fourteen years. Moreover, the period covered by minimum-wage legislation has been characterised by extreme economic fluctuations. It includes the years of the World War, and periods both of inflation and of prolonged depression. For these and other reasons it is impossible to measure at all exactly the effects of minimum-wage legislation.

The most intensive study of minimum-wage legislation so far made is that which was conducted by the Women's Bureau of the United States Department of Labor in 1927, summarising the work and results to that date [1]. On the basis of an analysis of the wage rates and earnings of women affected by wage orders in the different States before and after the orders were issued, this report reaches the conclusion that the various objections which had been raised against the legislation cannot be substantiated; that on the contrary the legislation has served to help in raising the wages of the lowest-paid workers : " Minimum-wage decrees ", it states, " have shown no evidence of being drastic enough to draw the industry from a State. Moreover... there does not seem to be the slightest tendency for the minimum rate to become the maximum. As for the claim of the proponents of the law that decrees have raised rates for the group of women most in need of help, it is true that this period shows a steady rise in the first quartile, which represents the rate of the average low-paid women, and that the level of rates below which no considerable number of women are found rises steadily... " [2].

This study, it may be noted, was made at a time when minimum-wage legislation was at its weakest. A number of laws had been invalidated as a result of the ruling of the United States Supreme Court holding the District of Columbia minimum-wage law unconstitutional. Of the States with laws still in operation the majority

[1] U.S. DEPARTMENT OF LABOR, WOMEN'S BUREAU : *The Development of Minimum-Wage Laws in the United States*, 1912-1927, Bulletin No. 61, Washington, 1928, 635 pp.

[2] *Ibid.*, p. 370.

were handicapped in their work by the fear of provoking action which would result in invalidation of the legislation.

A later study by the Women's Bureau based in part on more recent data expresses a more positive opinion upon the results of minimum-wage legislation[1]. Data from several States, including both those with early legislation and those with recently enacted laws, are cited. In summarising the effect of the laws, the report concludes : " The universal experience with minimum-wage legislation, wherever it has been introduced into the various States in this country, is that it has very materially raised the wages of large numbers of women, and that in some cases this effect has been most marked "[2].

With regard to the effect of such legislation on the employment of women and on the level of wages of women receiving more than the minimum, the report is equally positive : " Far from reducing the wages of those receiving above the minimum, this type of law has resulted in raising the wages of many persons who previously had received more than the minimum fixed, and experience has shown that the minimum put in operation does not become the maximum. In regard to women's employment, the usual experience has been that it continues to increase regardless of whether or not there is minimum-wage legislation, and in the State where the highest minimum was maintained over a long period of years women's employment increased considerably more than in the country as a whole. The constant changes in employment that are occurring are attributable to many factors not connected with the minimum wage, and there is no evidence that such legislation has any general or controlling effect toward inducing the replacement of women by men "[3].

The conclusions reached in these studies are supported by reports from the States with minimum-wage laws. A few examples from these may be cited. Massachusetts, the first State to enact minimum-wage legislation, showed marked advances in the wages of women following the establishment of wage decrees under its " recommendatory " law. An investigation in 1920 of the wages of women employed as office and other building cleaners showed

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[1] U.S. WOMEN'S BUREAU : *Women in the Economy of the United States of America*, by Mary Elizabeth PIDGEON, Washington, 1937, Part. II. Chap. 2. Cf. U.S. DEPARTMENT OF LABOR, WOMEN'S BUREAU : *Summary of State Hour Laws for Women and Minimum Wage Rates*, Bulletin No. 137, 1936, pp. 3-4.

[2] PIDGEON : *Women in the Economy of the United States, op. cit*, p. 111.

[3] *Ibid.*

84 per cent. receiving less than 36 cents an hour and only 13 per cent. receiving as high as 38 cents an hour. A decree fixing a minimum rate of 37 cents an hour became effective on 1 February 1921. Inspection the following year showed only 16 per cent. of the women receiving less than 36 cents an hour, while 33 per cent. were receiving 38 cents an hour and over. The contrast in the wage situation is the more striking, since 1920 was a period of high wages and 1921-22 a period of depression. In this employment, which is purely unskilled, not only did the minimum fail to become the maximum, but the proportion of women receiving more than the minimum increased with each successive inspection [1].

In New York the average weekly earnings of women laundry workers were $10.40 before the establishment of the minimum rate for this occupation under the original law. Inspection after the minimum became effective showed average weekly earnings of $12.12, an increase of 28.9 per cent. During the same period the percentage increase in average weekly earnings for all manufacturing industries, representing occupations not covered by wage orders, was only 16.7 [2].

The report of the Rhode Island Division of Women and Children cites the result of a directory order for the jewellery manufacturing industry as follows : " Whereas the pay-rolls surveyed in August 1936 showed that 37.3 per cent. of the women and minors employed were paid less than 30 cents an hour, pay-rolls for April 1937 showed that only 5.8 per cent. were receiving less than 30 cents an hour, a month after the effective date of the wage order " [3]. The mandatory order for that industry became effective on 1 August 1937; surveys made immediately thereafter showed all but 0.2 per cent. of the women and minors receiving 30 cents an hour or more. In a comparison of 132 identical firms from August 1936 to August 1937, there was an increase of 4.9 per cent. in the proportion of women employed, and the administrator concludes : " The theory that a minimum-wage order for women would result in their being replaced by men workers has proven a failure in this instance. " It is further pointed out that in April 1937, after the directory order, there was a 2 per cent. increase in employment and a 14.4

[1] MASSACHUSETTS DEPARTMENT OF LABOR AND INDUSTRIES : *Annual Report for the Year ending November 30, 1929*, pp. 74-75.

[2] *Factual Brief for Appellant in the New York Minimum-Wage Case before the U.S. Supreme Court*, John J. Bennett, Jr., Attorney-General of New York State, 1935.

[3] RHODE ISLAND : *Report of the Division of Women and Children, 1937* (mimeographed), p. 1.

per cent. increase in pay-rolls over the corresponding month in the previous year. " This increase ", the administrator observes, " would seem to prove that the jewellery manufacturing business was not being driven out of Rhode Island by the minimum-wage order "[1].

A survey of wages in the laundry and dry-cleaning industry in Ohio under the directory wage orders for these occupations indicated, according to the Division of Minimum Wage of the Department of Industrial Relations, that the orders had been effective in raising the wages of women and minors in these occupations throughout the State and had brought substantial wage increases for individual women; also that there had been no tendency for the minimum wage to become the maximum or for the wages of the higher-paid employees to be reduced[2].

The United States Secretary of Labor has summarised the benefits of minimum-wage legislation as follows : " Minimum-wage orders have not only set a bottom to the wages of the lowest-paid workers, but have apparently lifted wages of large numbers of other workers above the minimum. Experience in several States has shown that minimum wages do not tend to become the maximum. A large number of women in the industries subject to the minimum-wage laws are receiving more than the minimum, and the larger proportion of them are receiving higher wages than before wage orders were issued "[3].

So many factors influence economic conditions that it is difficult to distinguish the effects of any particular measure. From such evidence as is available, however, and from the testimony of those most closely in touch with the situation, it would seem that the following conclusions could fairly be drawn with respect to the results of the operation of State minimum-wage laws.

There has been a general increase in the wages of the lowest-paid workers. In the trades affected "sweat-shop" conditions have, to a considerable extent, been eliminated. The minimum rates have not pulled down the higher wage rates to their level. There has in fact been a tendency for the general level of wage rates in the occupations affected to rise. The fixing of minimum rates

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[1] *Ibid.*, p. 3.

[2] U.S. DEPARTMENT OF LABOR, WOMEN'S BUREAU : *Special Study of Wages Paid to Women and Minors in Ohio Industries*, Bulletin No. 145, Washington, 1938, pp. 52-53.

[3] Frances PERKINS, U.S. Secretary of Labor : " Minimum-Wage Standards must be Preserved ", in *Labor Information Bulletin*, July 1936, pp. 1-2.

has not resulted in any extensive displacement of women by men or in a decline in the extent to which women are employed. Although there have been individual instances of displacement, the general trend in employment has shown an increase in both the number and the proportion of women gainfully employed.

With respect to the influence of minimum-wage regulation on industry, there is no evidence of any general deleterious effect. While it is possible that the existence of minimum-wage legislation or the promulgation of minimum-wage orders for a specific occupation may in individual instances have had an effect on the location of particular establishments, there is nothing to indicate that it has had a determining influence on the movement of industries from one State to another.

In considering the results achieved, it should be borne in mind that the primary purpose of the various minimum-wage laws was limited to the protection of workers at the lowest wage level from exploitation by the establishment of limits below which wages should not fall. It may also be recalled that the operation of minimum-wage laws within the States has been seriously handicapped in many instances through lack of essential implementing provisions, through inadequate appropriations and limited staff and through legal action testing their constitutionality.

An indirect indication of the results of minimum-wage legislation is shown in the increasing public interest in this legislation. The nation-wide expressions of regret over the invalidation of the New York minimum-wage law from persons of all shades of political opinion; the speed with which minimum-wage laws were enacted or re-enacted after the constitutionality of such legislation had again been established; the support of organised labour and the inclusion of a demand for minimum-wage legislation in the platforms of both major political parties—all these are evidence of a widespread conviction that such legislation has proved its value both to the workers directly concerned and to the community as a whole.

Federal Regulation

There are few data available regarding the effect of Federal legislation containing minimum-wage provisions. As previously noted, only one measure of this nature and of general scope was in operation at the close of the period covered by the present report—July 1938. This measure, the Walsh-Healey Public Contracts Act,

being concerned solely with firms working under public contracts, does not come within the scope of the present study.

The National Industrial Recovery Act

Of the two measures which have been invalidated with respect to labour provisions, one—the National Industrial Recovery Act—apparently had an appreciable effect on wages. Although there are wide differences of opinion with regard to many of the effects of this Act, there is, in general, agreement that the codes of fair competition adopted under it resulted in material wage increases for the lowest-paid workers in industry[1].

Various studies have been made of the results of the Act. The Bureau of Labor Statistics of the United States Department of Labor has published figures of pay-rolls and earnings previous to the codes and during the period that the codes were in effect. In manufacturing industries there was an increase of 62-63 per cent. in pay-rolls from January 1933 to January 1935. In manufacturing and non-manufacturing industries combined, however, the increase during that period is estimated at 27 per cent. *Per capita* weekly earnings in manufacturing industries advanced 24.2 per cent.; and in manufacturing and non-manufacturing industries combined, 11.5 per cent. Average hourly earnings in manufacturing in January 1935 were 27.6 per cent. higher than in January 1933; and for the combined industries were 20.4 per cent. higher[2]. It will be noted that these figures show the changes in money wages or earnings during the period in question. To appreciate their significance they should be compared with the changes in the purchasing power of the dollar during the same period.

A critical analysis of the National Recovery Administration published by Brookings Institution estimates that increases in the cost of living, attributed by the authors to the codes, very largely offset any advance in wages for employees as a class. It is also suggested that other factors besides the N.R.A. may have been responsible for the increase in money wages which occurred during the period of the codes. It is recognised, however, that the initial gain in average hourly earnings following the President's

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[1] Cf. U.S. NATIONAL EMERGENCY COUNCIL: *Report to the President of the United States from the Acting Executive Director*, Washington, 1935, p. 20.

[2] U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS: "The National Recovery Administration: Labor Aspects", in *Handbook of Labor Statistics*, 1936 edition, Bulletin 616, p. 541; see also *Monthly Labor Review*, March 1935, *Employment, Hours, Earnings and Production*, January 1933.

Re-employment Agreement may be fairly attributed to N.R.A. influence; also that the lower-paid workers in general shared more substantially in the wage increases than others; and further, that in addition to promoting the equalisation of average hourly and weekly earnings in different industries, the N.R.A. undoubtedly effected some equalisation of earnings among various classes of employees in the same establishment [1].

A somewhat different point of view is presented in a report of the President's Committee on Industrial Analysis. This points out that wage increases were appreciably greater in the N.R.A. industries than in non-code industries during the same period. Admitting that a rise in the cost of living which occurred simultaneously with the increase in wage rates almost cancelled the advance in money earnings to the individual worker, the Committee points out that the upward trend in wages continued throughout the entire code period; that the codes, particularly the President's Re-employment Agreement, had a tremendous part in bringing up the hourly earnings in industries which had been characterised by particularly low rates; that the N.R.A. established higher wage standards in many sections of the country characterised by low wages; and that it was a factor in reducing wage competition and in eliminating some of the extreme variations in wage rates [2].

With regard to the reductions in regional wage differentials which were made by N.R.A. codes, the criticism has been made that " As a result of this policy the N.R.A. placed economic pressure on employers in small towns and in the South, and discriminated among the States; some employers actually moved their plants to larger towns and cities and even across State lines. In other instances, minimum-rate zones introducing abrupt changes in the minimum induced employers to migrate into the low-rate areas " [3]. The same writer made a study of the extent to which the minimum rates fixed tended to become standard rates. " After the N.R.A. codes became effective ", he concludes, " abnormally large number of workers received wages near the minimum. Such concentration in general was almost complete in industries where

[1] Leverett S. Lyon and others : *The National Industrial Recovery Administration, an Analysis and Appraisal*, Brookings Institution, Washington, 1935, p. 852.

[2] President's Committee on Industrial Analysis : *Report on the Effects of the Administration of Title I of the National Industrial Recovery Act*, 17 February 1937, pp. 141, 223-224.

[3] C. F. Roos : " Some Effects of Minimum Wages ", in his *N.R.A. Economic Planning*, Bloomington, Principia Press, 1937, pp. 191-194.

the minimum was set higher than the wage formerly obtained by at least one-third of the workers. There was more concentration at the minimum among the women than among the men, and for each sex this was greater in the small than in the large cities. But in general industry did not reduce average weekly earnings below pre-code levels despite greatly curtailed hours, and in many instances weekly earnings were actually increased. In only a few cases has the weekly differential between earnings of skilled and unskilled workers decreased while the hourly differential has been maintained or even increased. Therefore the concentrations of workers at the minima are to be explained chiefly by increases in wages of workmen previously receiving lower wages; . . . in some few cases manufacturers' cost was increased while weekly earnings decreased; the wage of the employed skilled worker was divided with the unemployed "[1].

Despite its brief period of operation, its defects, and the problems it presented, and despite a breakdown in enforcement, it would be difficult to overestimate the importance of the National Recovery Act in the field of labour relations. With respect to minimum wages, it resulted in raising appreciably the level for low-wage workers in many sections of the country. It made the public wage-conscious. It stimulated State action; and it paved the way for an approach to greater uniformity of procedure among the States. Although of a temporary nature, it led to the enactment of permanent legislation for the regulation of wages on a national scale.

Present Problems and Outlook for the Future

Minimum-wage legislation in the United States appears at the present time to be in a strong position. The constitutionality of such legislation has been upheld by the highest Court, which has given definite recognition to the principle of a living wage. Public opinion has strongly supported the legislation. The leading industrial States have enacted minimum-wage laws. A Minimum-Wage Compact has received the approval of Congress. The Federal Government has passed legislation to establish minimum-wage standards for interstate industries throughout the country and for all employees of those industries, regardless of sex.

[1] *Ibid.*, pp. 193-194.

It is a significant advance that has been made, and mainly within the present decade. There are still many problems, however, to be met if the objectives of minimum-wage legislation are to be realised and if low-paid workers generally in the various industries throughout the United States are to be afforded protection against sub-standard wages. Among the problems that remain, the most outstanding are those concerned with administration, uniformity, effectiveness, geographic scope and the numbers covered.

Little more than one-half of the States have as yet enacted minimum-wage laws. Of the women employed in these States who might be covered by wage orders under these laws, only a fraction — approximately one-fourth — has as yet been afforded such protection. The Fair Labor Standards Act, which became operative in October 1938, will no doubt change that situation in so far as interstate activities are concerned. It will also doubtless stimulate State action with respect both to the passage of laws in jurisdictions that do not possess such legislation, and the speeding up of the process of bringing all employments within the law under wage orders in States that have already enacted minimum-wage legislation.

In another important respect, that of uniformity, the Federal measure is likely to have a definite influence on State legislation. At the present time, as indicated in earlier sections of this report, there is wide variation in the type of laws in effect in the different States and in the procedure under these laws. A beginning in dealing with this situation, especially with regard to procedures and techniques, has been made through the Conferences of State Minimum-Wage Administrators with officials of the United States Department of Labor. These Conferences have contributed toward the general co-ordination of minimum-wage practices. At the Seventh Conference, held in Washington, D.C., in October 1937, two committees were established to work with the Women's Bureau of the U.S. Department of Labor. One of these is the Committee on Scope of Wage Orders; the other is the Committee on Statistical Practices for Minimum-Wage Divisions.

Recommendations have been made by these Committees as follows. The Committee on Scope of Wage Orders has recommended : that minimum-wage orders should be extended as rapidly as possible, beginning with the industries in which the largest number of women are employed at the lowest wages; that in the field of manufacturing each order should be made to cover as broad a group as practicable; and that in the interest of fair competition

minimum-wage States should co-operate to the utmost in establishing rates for manufacturing industries, and that the initiative for each industry should be taken by those States in which the bulk of the industry is located. The Committee on Statistical Procedure has recommended that State minimum-wage divisions should continue to make detailed surveys of industries before issuing wage orders. It was felt that the information secured in this way is essential to meet questions raised by wage boards during their deliberations and also to provide evidence before the courts in case the orders may be challenged[1]. As a result of the work of the Conference and its Committees, it is to be expected that the development of minimum-wage legislation will proceed with greater speed and with closer approach to uniformity in the various States.

The Interstate Labor Compact suggests a possible method for securing uniformity in minimum wage-fixing machinery within a group of States. Its use for such purpose has been approved by the Federal Government. The compact might conceivably be utilised also in the field of procedures and techniques. The limited use that has been made of this instrument to date, however, does not indicate that it is likely to be a very important factor in the situation.

Much more concrete results may come from the new Federal wages and hours measure — the Fair Labor Standards Act. Following the passage of that measure, arrangements were made by the Secretary of Labor for the drafting of a model wage and hour bill for the use of the States. This would make it possible for States desiring to do so to enact laws conforming to the Federal measure, except that their scope would be limited to intrastate activities. Similar action, it may be recalled, was taken by a number of States following the passage of the Labor Relations Act creating the National Labor Relations Board.

Such action, if taken by the States with regard to wage and hour legislation, would not only bring about greater uniformity in wage-fixing machinery in the various States, but would presumably establish identical or similar scope in the persons covered and keep within certain limits the variations in minimum rates. The enacting of such legislation by the States would also bring men, as well as women and minors, within the scope of State minimum-wage laws. This is, however, a problem for the future. No State has yet enacted such legislation; and each State is free to act

[1] "Toward Minimum Fair Wages" in the *Woman Worker*, July 1938, pp. 11-12.

or refrain from acting as it sees fit[1]. The Federal legislation, it may be noted, supplements but does not supersede the State legislation. The field of purely intrastate activity, as represented by the service trades, is left exclusively to the States. Nor are the States precluded from action in the case of interstate activities located within their borders. Wage orders made by State authorities for such industries may include provisions and standards not covered by the Federal Act. If the State regulations set higher standards for such industries than does the Federal measure, the State regulations will take precedence in so far as employees affected by the State law are concerned.

The existence of these two types of minimum-wage legislation — Federal and State — affords an opportunity for co-ordination of effort in the matter of enforcement. In this connection it may be noted that the Federal Act specifically authorises, for the purpose of enforcing its provisions, the utilisation of State employees with the consent and co-operation of the State authorities charged with the administration of State labour laws. Presumably the Federal authority would seek such co-operation primarily with the States that have well-developed wage inspection services. In this way the Federal legislation may be made to serve as an incentive to higher administrative standards on the part of the States, as well as to greater uniformity in the type of legislation.

Uniformity in legislative machinery and general co-ordination of procedure does not, of course, necessarily imply either the possibility or the desirability of identical action in the various States. A certain amount of variation is inevitable if the conditions peculiar to different environments are to be met. In the case of minimum rates of wages, for example, it is not to be expected that they will ever be made identical in all of the States. A more likely as well as a more feasible aim would be the establishment in each State of minima which constitute a genuine improvement over existing conditions and afford protection to the greatest possible number of employees.

[1] Pennsylvania in 1938 enacted an hour law which applies to adult men. An opinion of the State Court has held this measure unconstitutional. Oklahoma has enacted legislation applying the minimum wage and maximum hour regulations to men as well as to women and minors. The constitutionality of this measure has also been contested. Neither the Pennsylvania nor the Oklahoma laws, however, are measures of the type of the Fair Labor Standards Act.

REFERENCE LIST

UNITED STATES OFFICIAL PUBLICATIONS

(a) *Legislation*

(i) *Federal Laws*

Public Contracts Act (Public No. 846, 74th Congress, 1936).

Merchant Marine Act (Public. No. 835, 74th Congress, 1936, amended by Public. No. 705, 75th Congress, 1938).

Sugar Act (50 U.S. Stats. 1937, Ch. 898).

Fair Labor Standards Act (Public. No. 718, 75th Congress, 1938).

(ii) *State Laws*

Arizona : Session Laws, 1917, Ch. 38 (pp. 51-52) am. S.L., 1923, Ch. 3 (pp. 6-7); 1937, 2d. Spec. Sess., Ch. 20 (p. 582).

Arkansas : Acts 1915, Act 191 (p. 782).

California : Stats. 1913; Ch. 324 (p. 632); General Laws, 1937, Act 3613

Colorado : Session Laws, 1913, Ch. 110 (p. 407); 1917, Ch. 98 (p. 380); am Session Laws, 1937, Ch. 189 (p. 797).

Connecticut : Cumulative Supplement (1931, 1933, 1935) to General Stats., 1930, Ch. 131a (p. 374); am. 1937, Ch. 319.

District of Columbia : (40 U.S. Stats., 1918, 960).

Illinois : Laws of 1933, pp. 597-604; 1935, p. 840.

Kansas : Laws of 1915, Ch. 275 (p. 352).

Kentucky : Acts of 1938, Ch. 105 (p. 491).

Louisiana : Acts of 1938, No. 362.

Massachusetts : Acts and Resolves, 1912, Ch. 706 (p. 780); Acts and Resolves, 1934, Ch. 308; am. 1935, Ch. 267 (p. 311); 1936, Ch. 430 (p. 552); 1937, Ch. 401 (p. 457).

Minnesota : General Stats., 1913, Ch. 547; am. 1921, Chs. 81 and 84; 1923, Ch. 153.

Nevada : Stats. 1937, Ch. 207 (p. 467).

New Hampshire : Public. Acts and Joint Res. of 1933, Ch. 87 (p. 36).

New Jersey : Acts of 1933, Ch. 152 (p. 304).

New York : Laws of 1933, Ch. 584 (p. 1212); am. 1937, Ch. 276 (p. 779).

North Dakota : Laws of 1919, Ch. 174 (p. 317); am. 1935, Ch. 162 (p. 214).

Ohio : Laws of 1933, pp. 502-510.

Oklahoma : Session Laws, 1936-37, Ch. 52 (p. 387).

Oregon : Laws of 1913, Ch. 62 (p. 92); am. 1915, Ch. 35 (p. 48); 1931, Ch. 394 (p. 842); 1933 (2d. Spec. Sess), Ch. 88 (p. 228).

Pennsylvania : Laws of 1937, Act No. 248 (p. 917).

Puerto Rico : Laws of 1919, No. 45 (p. 200); 1931, No. 15 (p. 170).

Rhode Island : Public Laws, 1936, Ch. 2289 (p. 19).

South Dakota : Session Laws of 1923, Ch. 309 (p. 329); am. 1931, Ch. 173.

Utah : Laws of 1913, Ch. 63; Laws of 1933, Ch. 38 (p. 54).

Washington : Laws of 1913, Ch. 174 (p. 602); Laws of 1917, Ch. 29 (p. 98); cf. Laws of 1915, Ch. 68 (p. 243).

Wisconsin : Acts of 1913, Ch. 712; 1919, Ch. 679; 1923, Ch. 291; 1923, Ch. 409; 1923, Ch. 449; 1925, Ch. 176; 1937, Ch. 333.

(b) *Other*

(i) *Federal*

DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS: *Handbook of Labor Statistics* (annual).

Labor Information Bulletin (monthly).

Monthly Labor Review.

Proceedings of Conventions of International Association of Governmental Labor Officials (annual). Contain discussion of minimum wage legislation, administration and techniques.

DEPARTMENT OF LABOR, DIVISION OF LABOR STANDARDS: *Labor Standards* (monthly).

Proceedings of the National Conferences of States on Labor Legislation (annual). Contain discussion of minimum-wage legislation, report of Committee on Minimum Wage, and resolutions regarding minimum-wage legislation.

DEPARTMENT OF LABOR, LIBRARY: *List of References on Minimum Wage for Women in the United States and Canada.* Compiled by Edna L. Stone. U.S. Women's Bureau Bulletin No. 42, 1925, 42 pp.

Recent References on Minimum Wage in the United States. October 1936, 4 pp., mimeographed. Supplement to above.

DEPARTMENT OF LABOR, WOMEN'S BUREAU: *Current Information on the Minimum Wage.* February 1935, 13+5 pp., mimeographed.

The Development of Minimum Wage Laws in the United States, 1912-1927. Bulletin No. 61, 1928, 635 pp.

Employed Women Under N.R.A. Codes, by Mary Elizabeth Pidgeon, Bulletin No. 130, 1935, 144 pp.

Proceedings of the Minimum Wage Conferences called by the U. S. Secretary of Labor, 1933-1937. Issued in typewritten and mimeographed form.

Special Studies of Wages Paid to Ohio Women in Industry Prior and Subsequent to the Ohio Minimum Wage Law for Women and Minors. Bulletin No. 145, 1936, 83 pp. Bibliography, pp. 80-82.

State Labor Laws for Women, Hours, Homework, Prohibited or Regulated Occupations, Seats, Minimum Wage, by Florence P. Smith. Bulletin No. 144, 1937, 93 pp., charts.

State Minimum Wage Orders for Beauty Culture Occupations, June 1938, 33 pp., mimeographed.

State Minimum Wage Orders for Laundry and Dry-cleaning Occupations, February 1938, 32 pp., mimeographed.

State Minimum Wage Orders for Retail and Wholesale Trade Occupations, March 1938, 36 pp., mimeographed.

Suggested Language for a Standard Minimum-Wage Bill for Women and Minors, January 1938, 9 pp., mimeographed. Form as drafted by Counsel for the National Consumers League.

Summary of State Laws for Women and Minimum-Wage Rates, by Mary Elizabeth Pidgeon. Bulletin No. 137, 1936, 54 pp., charts.

Women in the Economy of the United States of America, by Mary Elizabeth Pidgeon. 1937, 137 pp.

A Year of the Minimum Wage, by Mary Anderson, Director of the Women's Bureau, April 1938, 7 pp., mimeographed. Revised from article in *American Federationist* for April 1938.

DEPARTMENT OF LABOR AND DEPARTMENT OF AGRICULTURE: *Factors to be Considered in Preparing Minimum-Wage Budgets for Women and the Practical Pricing of Budgets to be Used in Establishing Minimum Wages*, 1937, 56+7 pp., mimeographed.

LIBRARY OF CONGRESS—DIVISION OF BIBLIOGRAPHY: *List of Recent References on the Minimum-Wage Question*, March 1923, 10 pp., typewritten.

National Industrial Recovery Administration, Division of Review: *Legal Aspects of Labor Problems—Minimum Wage*, by Melvin Sims, 1936, 134 pp., mimeographed.

President's Committee on Industrial Analysis: *Report of the Effects of the Administration of Title I of the National Industrial Recovery Act*, February 1937, mimeographed.

(ii) *States*

Annual and Biennial Reports of the State Minimum-Wage Administrators.

Texts of Wage Orders.

Periodical Publications. In several States the department administering the labour laws issues periodical publications discussing current activities and problems of administration, including minimum wage. One of the outstanding publications of this nature is *Industrial Labor Information*, issued monthly by the New York State Department of Labor.

Special Reports:

Report of the Special Commission Established to Investigate the Operation of the Minimum-Wage Law. Commonwealth of Massachusetts, House No. 1225, 1932, 40 pp.

Compact for Establishing Uniform Standards for Conditions of Employment, particularly with regard to the Minimum Wage, in States ratifying the same. Interstate Conference on Labor Compacts, Boston, 1934, 9 pp., mimeographed.

Interstate Compacts in the Field of Labor Legislation. Issued by the New Hampshire Commission on Interstate Compacts Affecting Labor and Industries, Concord, January 1935, 45 pp.

Other Publications

(a) *Books and Pamphlets*

Mary Anderson: "Minimum-Wage Legislation", in *Proceedings of 23rd Annual Convention, International Association of Governmental Labor Officials* (Washington, U.S. Bureau of Labor Statistics, 1937), pp. 74-80.

Barbara N. Armstrong: *Insuring the Essentials: Minimum Wage Plus Social Insurance—Living-Wage Programme.* (New York, Macmillan, 1932, 717 pp.)

Alfred Bernheim and others: *Labor and the Government*, 20th Century Fund, Inc. (New York, McGraw-Hill, 1935, 413 pp.), Ch. XII, "Code Labor Provisions", pp. 278-306.

Elizabeth Brandeis: "Minimum-Wage Legislation", in *History of Labor in the United States, 1896-1923*, by John R. Commons and others, Vol. III (New York, Macmillan, 1935, pp. 501-539).

Louis D. Brandeis: *The Curse of Bigness* (New York, Viking, 1934): "The Constitution and the Minimum Wage", pp. 52-69.

John R. Commons and John B. Andrews: *Principles of Labor Legislation*, 4th ed. rev. (New York, Harper, 1936): "Minimum Fair Wage", pp. 43-82. Bibliography, pp. 540-544.

Eleanor Davis: *Minimum-Wage Legislation in the United States: Summary of Fact and Opinion* (Princeton University, 1933, 29 pp., mimeographed). Bibliography, pp. 28-29.

Minimum-Wage Legislation in the United States: Selected Bibliography (Princeton University, November 1936, 5 pp., mimeographed). Supplement to above.

Carroll R. DAUGHERTY : *Labor Problems in American Industry*, rev. ed. (Boston, Houghton, 1938), 984+14 pp.

Labor under the N.R.A. (Boston, Houghton, 1934, 23 pp.).

DETROIT PUBLIC LIBRARY : *Minimum Wages and Maximum Hours : Selected Recent References*, March 1937, 14 pp., mimeographed.

Elmo Paul HOHMAN : " Theory and Practice in Minimum Wage Policies ", in *Proceedings of National Conference of Social Work*, 1936, pp. 356-364.

Ethel M. JOHNSON : " Report of Committee on Minimum Wage ", in *Proceedings of 20th Annual Convention of the International Association of Governmental Labor Officials*, 1934, pp. 8-15.

" Interstate Labor Compacts ", in *Proceedings of the Conference of Governors* at Biloxi, Mississippi, 1935, pp. 84-90.

LIMITED PRICE VARIETY STORES ASSN. IN COLLABORATION WITH THE INSTITUTE OF DISTRIBUTION : *State Wage and Hour Restrictions Affecting Retail Establishments*, as of 15 July 1937 : mimeographed. " Women's and Children's Minimum-Wage Laws in Mercantile Establishments ", pp. 16-23.

Frieda S. MILLER : " Report of Committee on Minimum Wages ", in *Proceedings of the 22nd and 32rd Annual Conventions of the International Association of Governmental Labor Officials*, 1936-37, pp. 82-90 of 22nd and pp. 54-62 of 23rd.

Leverett S. LYON, Paul T. HOMAN, and Lewis L. LORWIN : *The National Recovery Administration : An Analysis and Appraisal* (Washington, Brookings, 1935, 947 pp.).

Leon Carroll MARSHALL : *Hours and Wages Provisions of N.R.A. Codes* (Washington, Brookings, 1935, 115 pp.).

Lucy Randolph MASON : " Progress in Administration of Minimum-Wage Laws in 1933 ", in *Proceedings of National Conference of Social Work*, 1933, pp. 378-386.

NATIONAL CONSUMERS' LEAGUE : *Report of the Conference on the Breakdown of Industrial Standards* (New York, 12 December 1932, 46 pp.).

Report, 2nd Annual Meeting of the Labor Standards Conference (New York, 12 December 1933, 18 pp.).

State Minimum-Wage Laws in Practice, by Felix Frankfurter, Mary W. Dewson and John R. Commons (New York, 1924, 179 pp.).

The Supreme Court and Minimum-Wage Legislation (New York, New Republic, 1925, 287 pp.).

Egbert Ray NICHOLS and Joseph H. BACCUS (Compilers and Editors) : *Selected Articles on Minimum Wages and Maximum Hours* (New York, Wilson, 1936, 461 pp.).

Charles Frederick ROOS : *N. R. A. Economic Planning* (Bloomington, Principia Press, 1937).

Historic Opinions of the United States Supreme Court (New York, Vanguard, 1935, 577 pp.).

(b) *Articles*

Beulah AMIDON : " Due Process ", in *Survey Graphic*, July 1936, pp. 412-415, 446, 447.

Mary ANDERSON : " A Year of the Minimum Wage ", in *American Federationist*, April 1938, pp. 369-375. Revised in mimeographed form by U.S. Women's Bureau.

Alice CHEYNEY : " The Course of Minimum Wage Legislation in the United States ", in *International Labour Review*, Vol. XXXVIII, No. 1, July 1938, p. 26.

Ethel M. JOHNSON : " The Drive for a Minimum Wage ", in *Current History*, September 1933, pp. 688-694.

" Minimum Wage Legislation ", in *American Federationist*, July 1936, pp. 692-699.

" Interstate Compacts on Labor Legislation in the United States ", in *International Labour Review*. Vol. XXXIII, No. 6, June 1936, pp. 790-815.

" Interstate Compacts—Promise or Problem ", in *Christian Science Monitor*, Magazine Section, 9 February 1938, p. 6.

Frances PERKINS (U.S. Secretary of Labor) : " Minimum-Wage Standards must be Preserved ", in *Labor Information Bulletin*, July 1936, pp. 1-2.

John A. RYAN : " The Revival of Minimum-Wage Legislation " in *Catholic Charities Review*, May 1933, Vol. XVII, pp. 133-135.

Florence P. SMITH : " Progress of Minimum-Wage Legislation, 1937 ", in *U.S. Monthly Labor Review*, January 1938, pp. 184-200. (The same, number contains article on " Criteria for Minimum-Wage Determinations " pp. 201-204.)

Louise STITT : " The Present Status of Minimum-Wage Legislation in the United States ", in *Social Service Review*, March 1936, Vol. X, pp. 109-116.

APPENDIX

International Reference List

In order to avoid unnecessary repetition the reference lists appended to the various national monographs have been limited in most cases to publications dealing solely or mainly with the countries concerned. The following is a list of some of the principal publications dealing with more than one country or with problems of wage regulation in general.

Publications of the International Labour Office

Minimum Wage-Fixing Machinery : an International Study of Legislation and Practice (Studies and Reports, Series D, No. 17, 1927).

Minimum Wage-Fixing Machinery. Questionnaire (International Labour Conference, Eleventh Session, Geneva, 1928, Item I on the Agenda). Geneva, 1927.

Report on Minimum Wage-Fixing Machinery and *Supplementary Report on Minimum Wage-Fixing Machinery* (International Labour Conference, Eleventh Session, Geneva, 1928. Item I on the Agenda). Geneva, 1928.

Draft Conventions and Recommendations adopted by the International Labour Conference. Contains the texts of the Convention concerning the creation of minimum wage fixing machinery and Recommendation concerning the application of minimum wage fixing machinery adopted at the Eleventh Session of the International Labour Conference, Geneva, 1928.

Summary of Reports under Article 22. Annual volumes, containing, *inter alia*, summaries of the annual reports by countries which have ratified the Convention concerning the creation of minimum wage fixing machinery.

Legislative Series, containing translations of laws concerning minimum wages.

The I.L.O. Year-Book (annual). Chapters on the remuneration of labour, workers' general rights and special problems of certain categories of workers.

International Labour Review (monthly) and *Industrial and Labour Information* (weekly) which contain articles and notes from time to time dealing with minimum wage-fixing in different countries.

Conciliation and Arbitration in Industrial Disputes (Studies and Reports, Series A, No. 34, 1933).

Collective Agreements (Studies and Reports, Series A, No. 39, 1936).

The Law and Women's Work : a Contribution to the Study of the Status of Women (Studies and Reports, Series I, No. 4, 1939).

Other Publications

Armstrong, Barbara Nachtrieb : *Insuring the Essentials. Minimum Wage plus Social Insurance — A Living-Wage Program* (New York, Macmillan, 1932), Part II.

BRODA, R. : *La Fixation légale des Salaires. Expériences de l'Angleterre, de l'Australie et du Canada* (Paris, M. Giard et E. Brière, 1912).

Minimum-Wage Legislation in Various Countries (United States Department of Labor, Bureau of Labor Statistics, Bulletin No. 467, Washington, 1928).

BURNS, Eveline, M. : *Wages and the State, a Comparative Study of the Problems of State Wage Regulation* (London, P. S. King and Son, 1926). Contains an analysis of the criteria followed by different authorities in fixing wage rates.

FEIS, H. : *The Settlement of Wage Disputes* (New York, Macmillan, 1921).

A Collection of Decisions presenting Principles of Wage Settlement (New York, the H. W. Wilson Company, 1924).

RICHARDSON, J. H. : *A Study on the Minimum Wage* (London, Allen and Unwin, 1927).

VERRILL, Charles H. : *Minimum-Wage Legislation in the United States and Foreign Countries* (United States Department of Labor, Bureau of Labor Statistics, Bulletin No. 167, Washington, 1915).

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